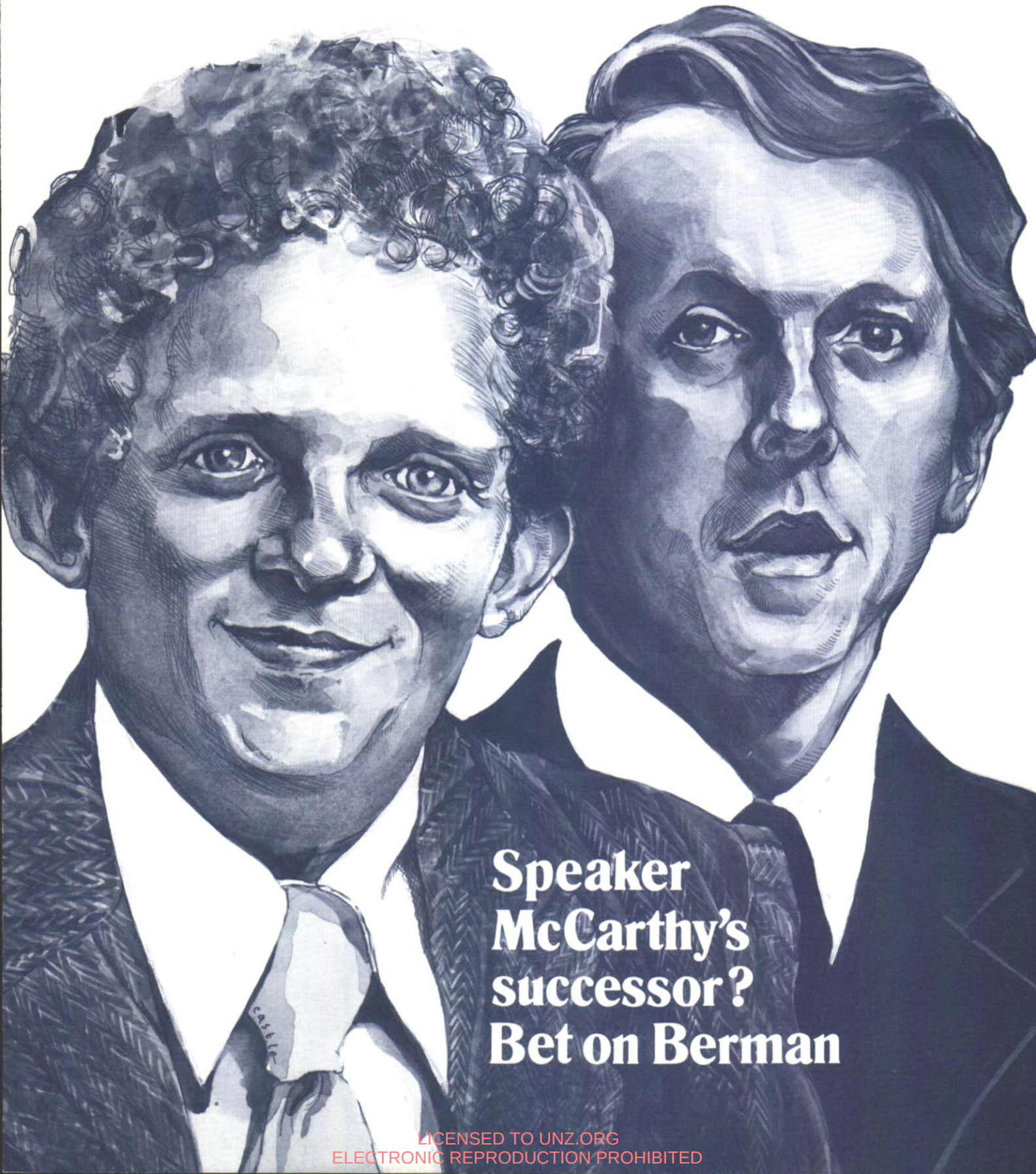
November 1979/$1.75

California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS



Speaker McCarthy's successor? Bet on Berman

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Personal PERSPECTIVE

By Ed Salzman

The war of the '80s

Many Californians had better become accustomed to living without schools, police and fire protection, mass transit and other governmental services for extended periods of time. It looks as if the 1980s will be remembered as the decade of economic warfare between the California public and its employees.

Over the years, Californians have often sided with public workers in disputes with local officials over wages, pensions and working conditions. At times, public employees have gone directly to the people through the initiative to obtain benefits through charter amendment that they were unable to win at the bargaining table.

Now it appears that the voters have switched sides and are most often supporting local officials during conflicts with employee organizations. More than anything else, Proposition 13 was aimed at those who spend the most tax dollars, public employees. Proposition 4 on this month's ballot will further restrict funds that can be spent for wages and fringe benefits. Some elected officials have received the message of Proposition 13, and they are no longer acting as patsies for employee unions. The result has been an unprecedented rash of employee strikes, sickouts and slowdowns this summer and fall.

In a sense, the voters tightened the pursestrings at an inopportune time — when inflation was running wild and employees were told that they had been given additional collective-bargaining rights. Look at the situation from the standpoint of a public servant: Aren't those on public payrolls entitled to keep pace with the cost of living? And what good is the gift of collective bargaining if management has its hands tied by ballot propositions?

In private enterprise, a company can pass the costs of a new contract on to the consumers or can take reduced profits. In the public sector, elected officials are caught between the two parties to the economic struggle. Even if they agree that employee requests are reasonable, they now will not always be able to find the funds to meet those demands. Even if they do, they risk being thrown out of office by tight-fisted voters.

As a result, we have both sides taking more militant stands, and the result is disruption of important governmental services. Unlike cities, counties and schools, transit districts do have a potential source of increased income — the farebox. But does it make sense to discourage patronage at a time when more use, not less, of trains and buses should be encouraged?

The public may well be prepared to accept disruption of services as a price of restrictive initiatives like Proposition 13 and 4. The voters cannot cut revenues for government and expect workers to accept a reduced standard of living without fighting. Public employees, on the other hand, undoubtedly realize that, in the long run, the public will get what it wants if it gets angry enough.

What is the solution? Labor organizations have been trying to sell the Legislature on binding arbitration to resolve disputes. But what good is an arbitrator's award if there is no money in the till to make it good?

One possibility is for the state to enter the arena and establish a board of referees. The state would have to take the responsibility of paying the bills when and if the referees issue awards that are beyond the means of local government. Short of something like that, California citizens will have to keep their radios to their ears to learn which government services are on and off each day.

California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

Volume X, Number 11 November 1979

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CALIFORNIA JOURNAL is a nonpartisan, non-ideological analysis of California government and politics established in 1970 and published monthly by the California Center for Research and Education in Government, a non-profit, tax-exempt corporation.

Indexed in the Public Affairs Information Service and the New York Times Information Bank.

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Subscription rates: Libraries and Governmental Agencies, $30; Corporations and Associations, $50; Special Individual Rate, $18.

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The back room at Posey's Restaurant in Sacramento is usually packed for meetings of the Sacramento Press Club. But when the guest speaker was Iris Mitgang, new leader of the National Women's Political Caucus, the turnout was far below par. Which gives support to those who claim that the press is partially responsible for the failure of women to achieve equality in the political arena.

Former Lieutenant Governor Ed Reinecke is aching for a return to politics. He'd like to take a shot at the state Senate seat held by Democrat John Garamendi. And Bob Whitten, the Sacramento broadcaster Garamendi defeated in 1976, is shooting for the Assembly seat now held by Republican Gene Chappie, who wants to replace Democrat Bizz Johnson in Congress.

For many year, Congressman Charles Wilson of Los Angeles has remained in office by avoiding difficult primary elections in an overwhelmingly Democratic area. Wilson, who is considered one of the prime junketeers in Washington, will face a challenge next year from former Democratic Congressman Mark Hannaford of Lakewood. The key question is whether Hannaford can shake off the inevitable charge of carpetbaggery.

Howard Jarvis was back in England last month fueling up another tax protest. Most of those who heard him on the BBC thought he was something of a nut — just what the California political establishment called him all those years.

Alan Robbins is getting some competition from a Senate colleague in the anti-busing arena. Senate minority leader Bill Campbell who is about one degree less ambitious than Robbins, signed a long fund-raising letter for the Foundation for Constitutional Education's Anti-Forced Busing Educational Projects.

The career of state Treasurer Jesse Unruh is dotted with legislative hits and political errors. The latest error apparently was the early endorsement of the Carter re-election campaign. Unruh used to be known as the key Kennedy connection in the state, and now Democratic officeholders by the dozen are maneuvering for the prize Unruh abandoned.

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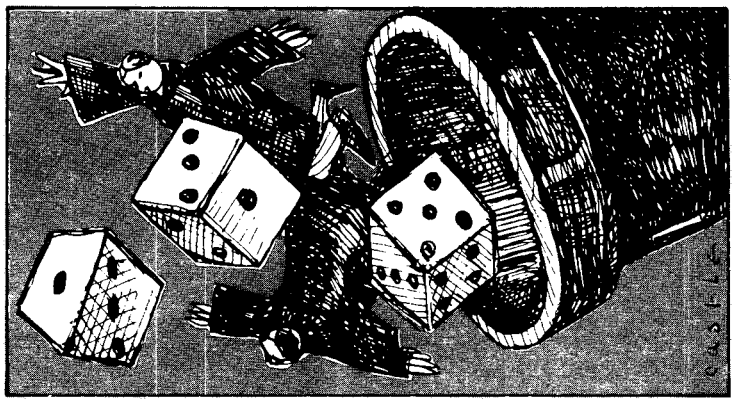
HERB-ASIDES

By Herb Michelson



Although the popular press has been ignoring the story in recent weeks, it's obvious that the search continues to find seven new state Supreme Court justices to consider whether the seven previously new state Supreme Court justices can, in fact, overrule the abatement order by the seven temporary state Supreme Court justices which declared that the seven quasi-state Supreme Court justices who had been selected among all 1963 winning contestants on the daytime version of "The Price Is Right" could not interfere with the public investigation of the seven officially appointed state Supreme Court justices by the Commission on Judicial Performance, Bertram Janes, author of *Janes' Book of Fighting Judges*, presiding.

The reason I know that the search continues to find seven new etceteras is because I was so informed by the Poker Dice committee at my local fern bar that I am among the candidates, seeing that I came up with a pair of threes to join my three sixes on a crucial shake, thus edging out an apprentice plumber friend who aspired to the temporary Chief Justiceship but clearly lacked the qualifications, seeing that he could manage only three sixes and a pair of deuces.

That the composition of the temporary transient part-time sometime anytime High Court of our very own state should include a non-litigant such as myself shows you how far the investigation by the Commission on Judicial Performance has come. Virtually inches.

Before the investigation really gets out of hand, it would be wise to recap it for the four remaining Californians still following "the high court probe," as it used to be referred to in one-column headlines which don't fit. Thus, this chronology:

MID-1978: Somebody named Tanner uses a gun and doesn't go to prison. The Gun Lobby thinks he should go to prison. Armed.

NOVEMBER 1978: Existing Chief Justice Rose E. Bird bakes a cake for Tanner, as she will do for anybody with a nice smile and a sweet tooth, and is elected to a 12-year term after promising on the day before said election that henceforth she will bake only cookies.

DECEMBER 1978: The Gun Lobby pushes through a bill which says, in effect, "Don't use a gun, go to prison," a logical parameter.

APRIL 1979: The Commission on Judicial Performance orders itself to investigate which of the state Supreme Court justices was at Studio 54 on the day the *Tanner* decision was supposed to be signed. And with whom.

MAY 1979: The Commission hires as its chief counsel one Seth Hufstedler. He is paid $100 an hour, plus lunch, plus a guarantee that his wife Shirley, already a federal judge, will never have to rule on the *Tanner* case, even if she wants to.

JUNE 1979: The investigation opens in San Francisco, moving after its first week from the Curran to the Orpheum because the Curran had previously booked an engagement of "Ain't Misbehavin'."

JULY 1979: Chief Justice Bird denies that she has ever used Duncan Hines' Yellow Cake Mix and is supported in this contention by Associate Justice Mathew Tobriner. But in subsequent testimony, Associate Justice William Clark says that he was told by a clerk of Tobriner that a clerk of Bird told a court reporter who was dropping by to deliver transcripts of the *Tanner* decision to a courier of Mrs. Hufstedler that Tobriner indeed prefers Yellow Cake Mix. Betty Crocker!!! (Janes was forced at this point to gavel the entire auditorium into silence.)

LATER IN JULY 1979: Associate Justice Stanley Mosk, who originally asked that the investigation run no longer than two weeks because he did not wish to miss the tennis season or be unmentioned in Herb Caen's column for any period longer than that, is called to testify. And refuses. "The Orpheum," he says, "is not my kind of room; my agent prefers a more intimate spot — perhaps a phone booth."

VERY LATE JULY 1979: In his third appellate match on the privacy issue, Mosk wins 6-3, 6-2, 7-5, but is required to find a phone booth big enough for both Hufstedler and himself.

AUGUST 1979: The existing state Supreme Court is not pleased with this decision and announces that it can be overturned by itself, or at least by seven persons calling themselves the state Supreme Court. Several Hollywood casting agencies are consulted. "Get me a young Felix Frankfurter," orders Janes.

MID-AUGUST 1979: Regular Associate Justice Frank Newman refuses to be replaced on the regular acting state Supreme Court, citing the ironclad precedent of Non Feel Likeit.

SEPTEMBER 1979: Chief Justice Bird, continuing to throw in the bullpen, turns down the opportunity to appoint her predecessor to the acting sort-of temporary meanwhile state Supreme Court until either (1) Newman leaves, or (2) Mosk serves, or (3) Tobriner agrees to eat her toll house cookies, at a toll house of his choosing, of course.

OCTOBER 1979: Governor Brown says on October 4th that he is washing his hands of the whole thing. Then on October 5th, in a campaign fund-raising appearance before the National Paper Towel Association, he says that he is drying his hands of the whole thing.

THE PRESENT: Tanner says that if only the investigation can get moving again he'll do anything any judge tells him to do. Tanner says if necessary he will even serve on the temporary state Supreme Court.

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Cory's successful coup against tax-collector Huff

By DAN WALTERS

It was late in the evening, the day before the Legislature was to adjourn for the year. Only a few Assembly members were on the floor. Most were in the lounge eating dinner. In one corner of the Assembly chamber, Republican leader Carol Hallett was talking to a knot of reporters about a billion-dollar tax battle with Speaker Leo McCarthy. McCarthy was in his office, working on the same matter.

Assemblyman Richard Lehman, a Fresno Democrat, arose on the floor and asked permission to take up a conference committee report on his bill, AB 939. He spoke for about five seconds, making an oblique reference to the Franchise Tax Board and asking for an "aye" vote on the conference committee report.

The voting machine registered a 76-2 tally in favor of the bill as dozens of absent members had their green buttons pushed by colleagues on the floor. What most of the members — both present and absent — did not know was that the conference committee, meeting only a fews hours before, had inserted into an otherwise meaningless bill some language that would revolutionize the state's tax collection system.

The bill, as amended, stripped out of the law the unique protection that Martin Huff, 56-year-old executive officer of the Franchise Tax Board, has enjoyed for the past 16 years. Huff could be fired only if two-thirds of the Senate agreed — a protection against politicization of the tax system that had been written into the law nearly three decades ago because of some tax scandals.

State Controller Ken Cory, who chairs the Franchise Tax Board, had been trying to whittle down Huff's authority for several years. It was Cory who masterminded the amendment of AB 939 and its passage on the Assembly floor.

A different scene

Only one reporter spotted what had happened and wrote a story about it. As a result, the scene in the Senate the next day was quite different from the Assembly's unknowing approval.

Huff's supporters, principally Senator Nicholas Petris of Oakland, rose to his defense. The debate was bitter and the voting dragged on for hours. Cory and four of his aides prowled the corridor outside the chamber, buttonholing senators. At one point, Cory even came onto the floor to lobby and was rebuked for the impropriety.

Petris accused Cory of trying to bend the tax system to his will and of making false accusations against Huff. Finally, the Senate sent AB 939 to Governor Brown on a 22-15 vote.

Brown waited until the last minute and then allowed the bill to become law without his signature. Some of his advisers and most of the state's major newspapers had argued for a veto. Several of Brown's staff feared that enacting the legislation would create a political backlash.

In allowing the bill to become law, Brown offered this explanation: "After much reflection I have decided to let AB 939 become law without my signature. Although this mea-

Dan Walters is the Capitol bureau chief for the Sacramento Union.

ILLUSTRATION BY DONNA RIVERS

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sure is by no means perfect, it moves in the direction of greater accountability. No high official should enjoy virtual lifetime tenure. Sound public policy requires this, even though the present executive officer is doing a good job and has my full support. To the extent that this measure needs additional safeguards, I believe the proper course is to work with the Legislature in January to obtain appropriate amendments."

Immediately Huff called a press conference to say he would resign from the $42,960-a-year post before January, rather than submit to a dilution of his authority. "The real issue is not Martin Huff," he said. "It is whether we want to continue sound, fair, even-handed tax administration in the state of California."

Cory insisted that his motives were pure. He and the other two members of the Franchise Tax Board — the state director of finance and the chairman of the Board of Equalization — are not kept informed of tax decisions, he said, and have no ability to set tax policy. "It's not a personal thing with Martin Huff," a Cory spokesman, John Jervis, added.

But Huff was not convinced. Cory's motive, he stated flatly was "raw, naked power." And William Bennett, chairman of the Board of Equalization and a staunch Huff defender, accused Cory and Brown of trying to take over control of the tax system because of their political ambitions. "It's to me a day of shame for a Democratic governor and a Democratic Legislature," Democrat Bennett said. "It's telling the people that the man who collects taxes in this state should be subject to political control."

Huff was even more specific: "Of the two principals involved (Brown and Cory), one is running for president and one is running for governor," he said as he announced his intention to resign, "Draw your own conclusions."

A relentless collector

As executive officer of the Franchise Tax Board for the past 16 years, Huff had built a nationwide reputation as a no-nonsense, relentless collector of state personal and corporate income taxes. "I won't kiss anyone's ass," he says bluntly.

Before his state appointment, Huff was auditor-controller of the city of Oakland, an elected position. A moderate Democrat in a city which had been run by Republicans for years, Huff gained bipartisan respect for his integrity. He served as state treasurer of the Democratic Party and forged a friendship with Petris. Later, Huff and the Oakland state senator worked together on a variety of measures designed to eliminate inconsistencies in California tax law.

From the beginning, Huff took his job very seriously. He refused to drift with the political tides and often said "no" to requests or suggestions of Franchise Tax Board members. His critics say he was not only insulated from political pressure but isolated, arrogant and unaccountable to the board.

Yet Huff survived widespread criticism and two changes in administration. Appointed when Pat Brown was governor, he was retained during the Republican administration of Ronald Reagan and then lasted into the second term of Governor Jerry Brown. Some observers have noted the irony of Huff being tumbled by two fellow Democrats.

(One Democrat who disagreed was Brown Sr., who wired Huff after his resignation: "Deeply regret my son's failure to veto this very unfair bill. You are one of the most courageous, independent and fair men that I have ever met. I am proud that you were part of my administration. I hope I see you soon. Regards. Edmund G. (Pat) Brown.")

'Out of proportion'

Cory insists that the furor over Martin Huff has been blown out of proportion. He says that the goals of "independence" and tax-record "confidentiality" have been used by Huff's staff to keep the Franchise Tax Board ignorant of the effects of policies it is supposed to establish. He has claimed that there have been "literally hundreds of instances where the agency has dealt summarily with taxpayers." The board needs "the authority to demand accountability," Cory wrote to the *Sacramento Union* last month. "If the agency for which (the board members) theoretically set policy has kept them in the dark with their hands tied, how can they be held accountable?"

As for the heavy lobbying he did for the last-minute bill, Cory says, "They (legislators) were all aware of the issue and knew what they wanted to do . . . Bills are passed at the 11th hour rather commonly. That is the nature of the legislative process."

Several senators remember Cory's lobbying efforts differently. They say that, in pushing the anti-Huff bill, Cory

Internship named after Frank Mesplé

Teacher, lobbyist, public servant and raconteur Frank Mesplé died suddenly September 28th at the age of 53. A former legislative secretary to Governor Edmund G. Brown Sr., Mesplé was known for his ready wit and was often sought as master of ceremonies for political functions throughout the state. In recent years he was legislative representative for Sacramento County and taught a popular course on state and local government at the University of California at Davis. Mesplé's teaching reflected his deep commitment to young people, to democracy and to the notion that the latter's best hope for survival lies in active and knowledgeable participation by the former.

In his memory, the Board of Directors of the California Center for Research and Education in Government, the *California Journal's* parent organization, has created the Frank Mesplé Internship Fund. Proceeds from the fund will assist students who will work for the *Journal* observing state and local government and will prepare articles for publication in the *Journal*. Contributions to the fund may be sent to the Frank Mesplé Internship Fund, % *California Journal*, 1617 10th Street, Sacramento, CA 95814.

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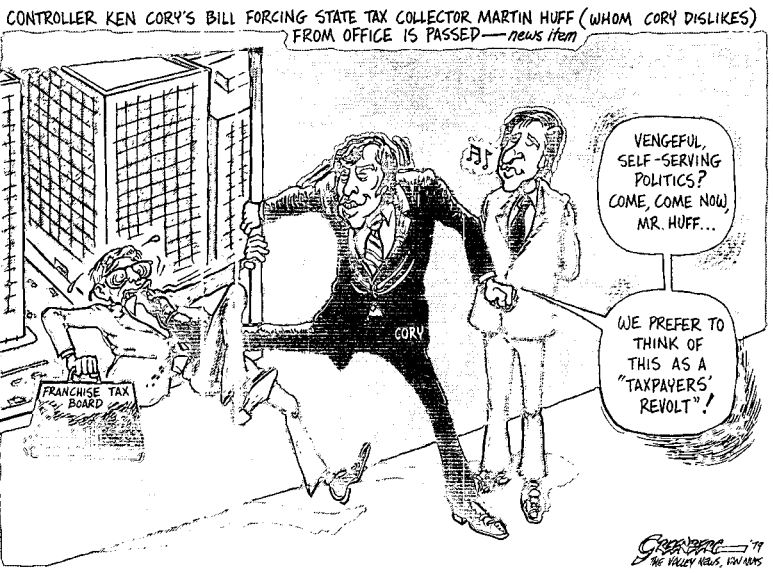
CONTROLLER KEN CORY'S BILL FORCING STATE TAX COLLECTOR MARTIN HUFF (WHOM CORY DISLIKES) FROM OFFICE IS PASSED—news item
VENGEFUL, SELF-SERVING POLITICS? COME, COME NOW, MR. HUFF...
WE PREFER TO THINK OF THIS AS A "TAXPAYERS' REVOLT"!
CORY
FRANCHISE TAX BOARD

played on legislators' fears that their $46 daily expense payments might be subjected to state tax. In the past Huff has asked questions of the attorney general on whether part of the per diem payments might be subject to taxation. Just two weeks before the Legislature recessed, Huff got an attorney general's opinion that lawmakers who sell their homes in their districts and move to the capital cannot deduct their Sacramento living expenses as a business expense.

Cory denies that he ever raised the per diem issue while pushing for senators' votes, but he says some lawmakers mentioned it to him. Whatever Cory and his staff said or implied, one fact is clear: Any hint of threat to per diem expenses — the Legislature's most sacred perquisite of office — could be enough to swing a wavering vote.

In addition, some legislators were already unhappy with Huff because his agency audits campaign reports — a chore he didn't want but was given to him by Proposition 9 in 1974. In the auditing process, Huff sent letters to hundreds of campaign contributors, seeking verification of donations claimed by legislators on their required statements. Many lawmakers felt Huff's letters frightened contributors and had a chilling effect on campaign fund raising.

Huff's relations with Governor Brown have been correct but cool ever since the unitary tax controversy two years ago. (See "Huff on the hot seat," *CJ*, November 1977.) Early in 1977, the governor, Huff and Cory all supported California's method of taxing multinationals and interstate corporations under a "unitary accounting" system. But after Dow Chemical Company charged the Brown Administration with an anti-business attitude, the governor went to Japan and found the unitary tax highly unpopular with auto and motorcycle companies which he wished to lure to California. Brown quickly changed his position on the unitary tax and accused Huff of providing "flaky data" on the issue.

Huff probably did not endear himself to the governor any further when, in announcing plans to resign, he said that Brown "exposed his ignorance" on the accountability issue. If accountability to the board is important, Huff said, Brown should have known that the board delegated almost all statutory authority to Huff. Rewriting that delegation of authority could establish "accountability" without changing the firing process, Huff said.

The long-range effects

What happens now? If Huff keeps his pledge to resign before the legislation becomes effective January 1, it could produce a basic change in tax collection in California.

At that point, two of the three members of the board can install whomever they please as executive officer. But who gets the job is unimportant, because the effective control of corporate and personal income taxes will pass from the executive officer to the two-member majority of the board. "Not even St. Peter would be above suspicion in those circumstances," says one Huff supporter.

Other observers raise the specter of Cory and Brown raising huge campaign warchests through corporate contributions. Corporations may find it prudent, as a form of political insurance, to contribute heavily to the politicians who control the Franchise Tax Board, suggests Board of Equalization chairman Bennett.

And it will be difficult, if not impossible, for the press and public to check on administration of the tax system because individual cases, by law, are confidential.

Huff's defenders compare the potential problems with one aspect of the Watergate scandal: the revelation that the Internal Revenue Service had been politicized and that tax cases were being handled for political purposes. The IRS was ordered to harass political enemies of the Nixon White House.

The Franchise Tax Board is California's equivalent of the IRS. Until now, the handling of tax cases has been shielded from such political interference. But in the future, the integrity of the tax system will be dependent upon the integrity of the politicians controlling it.

STATEMENT OF OWNERSHIP MANAGEMENT AND CIRCULATION

1. Title of publication:
CALIFORNIA JOURNAL

2. Date of filing: September 27, 1979.
3. Frequency of issue: Monthly. Number of issues published annually: 12. Annual subscription price: $18, $30, $50.
4. Location of known office of publication: 1617 10th Street, Sacramento, CA 95814.
5. Location of general business offices of the publishers: Same.
6. Names and addresses of Publisher, Editor, and Managing Editor: Publisher, Thomas R. Hoeber, 1617 10th Street, Sacramento, CA 95814; Editor, Ed Salzman, 1617 10th Street, Sacramento, CA 95814; Managing Editor, Alice Nauman, 1617 10th Street, Sacramento, CA 95814.
7. Owner: California Center for Research and Education in Government, 1617 10th Street, Sacramento, CA 95814.
8. Known bond-holders, mortgages, and other security-holders owning or holding 1 percent or more of total amount of bonds, mortgages or other securities: None.
9. The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes have not changed during preceding 12 months.
10. Extent and nature of circulation:

	Average Number of Copies Each Issue During Preceding 12 Months	Actual Number of Copies Single Issue Published Nearest To Filing Date
A. Total copies printed	18,627	19,000
B. Paid circulation		
1. Sales through dealers and carriers street vendors and counter sales	412	217
2. Mail subscriptions	16,525	16,424
C. Total paid circulation	16,937	16,641
D. Free distribution by mail, carrier or other means; samples, complimentary and other free copies	176	155
E. Total distribution	17,113	16,796
F. Copies not distributed		
1. Office use, left over, unaccounted, spoiled, after printing	1,067	2,017
2. Returns from news agents	447	187
G. Total	18,627	19,000

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The next speaker? Probably Howard Berman

By Cynthia Willett

The late Assemblyman Robert W. Crown used to say that at any given moment there are 79 potential candidates for the state's second most powerful office — speaker of the Assembly. Either openly or covertly, according to Crown, every member of the Assembly was angling for the leadership post, either by dethroning the incumbent or by winning an open contest should the office become vacant.

The speakership carries enormous power because the speaker alone holds the authority to appoint committees and then assign bills to committee. These twin powers give a speaker virtual control over the entire flow of legislation through the Lower House. The job is also enormously satisfying to the political ego because speakers get more attention and publicity than any other state officeholder except the governor. For these and other reasons, contests for the speakership are often brutal, as was the case five years ago when Leo McCarthy defeated Willie Brown.

The 1982 assumption

It is taken for granted in the Capitol that the current speaker, McCarthy, will be running for statewide office in 1982 and will resign the speakership at about the time he announces his candidacy, presumably for the United States Senate or governor. Even three years ahead of that time, full scale combat should already be underway among his potential successors.

Almost miraculously, that is not the case. There is near-unanimous agreement in the Assembly that the next speaker will be Howard Berman, the liberal majority leader who played a pivotal role in getting McCarthy elected over Brown in 1974. It appears that Berman's support may be so solid that he can withstand challenges of other candidates as McCarthy's resignation approaches.

In the past, the speakership has been more of a graveyard for political ambitions than a steppingstone to higher office. Yet, it seems standard for speakers to try for the governorship, as did Bob Moretti and Jesse Unruh. The last time even a former speaker ran successfully for a major office was in 1935, when Frank Merriam was elected governor. (Unruh, of course, hasn't quit yet. He undoubtedly will seek to move up from his post as state treasurer if an opportunity develops.)

Moving up

There is absolutely no doubt that McCarthy is planning a run for higher office. Assemblyman Art Agnos, perhaps McCarthy's closest political ally and former chief assistant, says McCarthy has his eye on the Senate seat held by Republican S. I. Hayakawa. A run for governor is the second choice. If neither of these races appears practical, McCarthy might run for mayor of San Francisco in 1983. Agnos says there are other possibilities, including retirement from politics or retention of the speakership.

The latter is the least likely possibility. McCarthy has stated that he would like to beat Unruh's record of 7½ years as speaker, a goal that would be fulfilled, conveniently, in 1982. Those close to McCarthy say that he recognizes the need for periodic change in leadership and that he would probably step down in 1982 whether or not he sought statewide office.

Assemblyman Richard Lehman feels that the vote for speaker is "probably the most important vote a member will ever cast." That is because the speakership pervades every aspect of legislative activity, from the fate of bills to the assignment of offices. At first, those on the winning side are rewarded, and those on the losing side are demoted. In one speakership contest many years ago, one assemblyman pledged his vote to both candidates. He was considered a double-crosser by both sides after he was caught. He threw up his hands and told his friends: "A guy has to protect himself." Nowadays, those involved in speakership contests know who is supporting each candidate. It is not unusual for an Assembly member involved in a leadership fight to keep a tally sheet in his or her pocket showing which votes are committed to each side and which can be swayed. The campaigning is done in private, even though the voting takes place in public. However, party caucuses, meeting behind closed doors, usually settle the issue before the entire house votes. In recent weeks, Republicans started rumors that McCarthy might be toppled by a coalition of conservative Democrats and Republicans. McCarthy tightened his grip and even suggested that speakers hereafter be chosen by the majority caucus and not by the membership at large.

Hindrance or help

How large a factor will McCarthy's support be in the selection of his successor? In recent years, outgoing speakers have been notorious failures in anointing a new leader. Once the campaign gets under way, the speaker can be more of a hindrance than a help to his favorite candidate. But, as one assemblyman pointed out, now is the time when McCarthy's support can be important. By helping in Assembly campaigns and giving committee chairs to those backing the preferred candidate, McCarthy can have great impact on the next speakership race — without ever supporting anyone publicly. McCarthy probably won't support Berman openly. He resented the lobbying efforts of former Speaker Bob Moretti on behalf of Willie Brown.

Just a few months ago, it appeared that the main combatants in the next speakership contest would be Berman and Ways and Means Chairman Dan Boatwright. Hardly lacking in confidence, Boatwright says he knows he has the votes to become speaker if the election were held today. But he's withdrawn from the competition to run for the state Senate.

Two other potential opponents have taken themselves out of the race. The veteran Assembly speaker pro tempore, John Knox, has decided to retire from the Legislature at the end of his current term. And Agnos, who heads the Demo-

Cynthia Willett wrote "Militancy for sale" in the September Journal.

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cratic caucus and who is McCarthy's alter ego, has stated that he will never seek the position. Agnos says he wants to play a major role in picking McCarthy's successor but will not run himself because of the job's "terrible political and personal demands." (Agnos jokes, however, that he does have political ambition and "might consider making those kinds of sacrifices for the presidency.")

By virtue of the Boatwright, Knox and Agnos withdrawals, Berman appears to have a relatively clear path to the speakership. There are two possible challengers: Willie Brown, who still has a following, and Bill Lockyer, who inherited his desire for the speakership from his mentor, Bob Crown.

Willie Brown's future

There is considerable disagreement in the Capitol over whether the flamboyant and articulate Brown will try for the speakership again. Boatwright believes that he will: "Willie Brown will be in the Assembly in 1982 and he'll be a viable candidate for speaker." On the other hand, Assemblyman Lou Papan, a McCarthy lieutenant and chairman of the Rules Committee, feels that Brown has already been through that race and won't try again.

Brown himself is leaving his options open. He says he "expects to finish out his career as an assemblyperson," but there has been speculation for some time that he would run for statewide office or mayor of San Francisco. Brown has been devoting an increasing amount of time to his law practice in San Francisco — an indication of waning interest in the speakership contest.

Lockyer, who is an experienced and popular lawmaker, makes no bones about his interest in the speakership. But he recognizes that there's a "waiting list" ahead of him and that "I may not have the right kind of qualities that would make for a good speaker . . . From my observation of the speakership, it seems that half of the time is taken up handling the egos of the place, soothing tempers and keeping members on track. Up to now, I've been one of the ones that has needed a temper calmed. Unless that dimension changes, I see that as a liability."

Lockyer now counts himself as a Berman vote, as do many other Democrats. Why is the 38-year-old majority leader so popular and respected?

Assemblyman Lehman calls Berman "a legislator's legislator" and explains: "Howard is the master of the art of compromise. He is a superb negotiator and keeps his word." Lehman also points out that Berman is "very political" and has a broad grasp of the mechanics of the Legislature.

Berman has enjoyed a meteoric career in politics. He was elected to the Assembly in 1972, defeating a veteran Republican, Charles J. Conrad, in a district that was supposed to be relatively safe for the GOP and which was not really Berman's home territory. Berman is the partner of Congressman Henry Waxman in a sophisticated political organization that calls upon the computer-mailing talents of Berman's brother, Michael.

Berman has assisted many other Democrats in their elections and is known for sensitivity to the problems of his colleagues in their own constituencies. Members almost universally rate Berman as fair and tolerant because of this. Although Berman is a hard worker who devotes most of his energy to politics, he doesn't talk down to people and has a relaxed way about him. He is easy to approach, and that's an important trait for a prospective speaker.

As majority leader and a key member of the McCarthy team, Berman has been able to raise large sums of money to donate to Democratic Assembly candidates. Records show that in 1978 he donated some $85,000 to candidates and party campaigns. These funds translate directly into votes for the speakership because new members don't forget those who helped them get elected.

Threat of the GOP

Perhaps Berman's chief threat is Carol Hallett, the Republican leader in the Assembly. Should the Republicans gain control of the Assembly in the next election, McCarthy would lose the speakership to a Republican, probably Hallett, and then Berman would lose his position on the catbird seat. Republican caucus chairman Charles Imbrecht claims the GOP has a "realistic shot" at winning control of the Lower House in 1980, but that would require at least a 10-seat switch from Democratic to Republican.

Within the Democratic caucus, Berman's chief liability is his liberal philosophical bent. He is a free spender, a liberal on criminal justice issues and to the left of most Democrats. "Howard's got these genuine ACLU views that he brings from his background," Boatwright observes. "Quite often he's out of step with the majority of the caucus."

But Berman is also a pragmatic politician. This year, he voted for a farm-labor bill opposed by Cesar Chavez and he cast a reluctant "aye" vote on the bill to place the anti-busing constitutional amendment on the ballot this month. "I think Howard's torn between what he believes in philosophically and wanting to be more agreeable to the rest of the house," says Boatwright. "It's very difficult when you have to compromise your views in order to gain support."

Agnos, who has worked in the speaker's office, claims that a speaker can be successful only if he yields his personal views to the caucus position. He says the so-called omnipotence of the speaker is a myth. "A speaker only has so many silver bullets," he emphasizes. "If he uses them all up, then he's no longer a speaker because he's run out of ammunition."

In the Capitol, Howard Berman is considered one of the Legislature's most skillful collectors of silver bullets.

(For additional background material on this subject, see "How McCarthy won the speakership," CJ, July 1974 and "Waxman, Berman and the bagel boroughs," CJ, September 1976.)

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McCarthy as speaker: 'Unique ability to persuade'

By Robert P. Studer

California's flamboyant Assembly Speaker Jesse Unruh earned the unflattering title of "Big Daddy" back in the early '60s by locking the doors of the state's lower house of government to get his way on a key vote. In so doing, he created a public image for the office as well as for himself.

But like most images, this one of the leader of the Assembly majority party was too simple. In the case of California's present Assembly speaker, Leo McCarthy, the real picture is extremely complex.

Republican Senator William Campbell, minority leader of the Senate, insists that McCarthy can be very heavy-handed when he wants to be. "He runs a much harder house than Jesse Unruh ever did. There was more flexibility with Jesse," Campbell says. And members of the Assembly who, from time to time, have felt McCarthy's wrath agree with Campbell's evaluation.

But a former Republican minority leader, Assemblyman Paul Priolo, disagrees. Priolo competed with McCarthy for more than three years, until he lost his own leadership post last May. He says that McCarthy's power comes from his "unique ability to persuade, not from raw, strongarm political power."

Inside McCarthy's office, that view is shared. Jack Johnson, who was press aide to the speaker for more than four years, says that his former boss was a master of patient persuasion. "McCarthy is sort of like a bulldog," Johnson says. "He will hold a hundred meetings to move a person a quarter of an inch. During the Agricultural Labor Relations Act negotiations, for example, McCarthy went from room to room to room inching the various adversaries a quarter of an inch at a time toward a final common meeting ground. He did it with the powers of persuasion."

Differing styles

Johnson believes that McCarthy is more adept at using the political process than any speaker since Jesse Unruh. "Bob Monagan was probably the other speaker who was closest to McCarthy in properly using the process," Johnson says. "Bob Moretti was a wheeler-dealer; Unruh was the arm-twister. He steamrolled; he got the votes; and he came right at you.

"Leo, however, believes in negotiations. That's why he has had more success in dealing with the Republicans than any of the other speakers. In the four years I was with Leo McCarthy, I never saw him twist an arm."

Carol Hallett, the new Republican minority leader in the Assembly, credits McCarthy with being self-disciplined, hard-working and conscientious. "I believe he is a man of his word and if he agrees to do something, he does it," she says.

Yet Hallett worries that the position of speaker carries with it too much power. Being able to appoint every committee, assign every bill and appoint more than 200 individuals to commissions and boards creates an unhealthy level of control, she says.

McCarthy dismisses the stereotyped view of an all-powerful speaker as outdated and unrealistic. "Whatever was the case a decade or more ago, it is not the practice nor the reality in the state Assembly of 1979. Certainly, the speaker still has a good deal of power because he can appoint all memberships of every committee. However, the new style — the McCarthy style — of leadership requires spending hours in discussions with experts in the various fields of law. It doesn't rely on a whip."

He describes his approach this way: "Whether it is conferring with the chairman and three or four key Democrats of the tax committee, or the chairman and three or four members of the education committee, or some other issue that is at stake — the idea is to come up with a consensus of policy choices or potential remedies.

"And then I react with them — but I rarely substantially modify what they propose. All that I ask is that they have those ideas independently analyzed by every research resource available to us — the Assembly Office of Research, their own standing committee staffs, the legislative analyst's office, the appropriate department of the executive branch of government, and the opinions of those from outside of government in the private sector.

"Then," McCarthy says, "if they are on solid ground — if they can defend what they are proposing — I will take it from there to the Democratic caucus as a whole and, if it has not developed into a hard-line partisan issue, to the Republican leadership."

Significantly, that's about the way that Priolo, McCarthy's longtime adversary, describes the speaker's techniques: "I served both with Jesse Unruh and Leo, and I tell you that the difference between the two men is as great as night and day. Jesse Unruh literally used brute force. He would just threaten you . . . He could bring a cold sweat to anyone when it came to exercising his will. He was a student of every one of our backgrounds — our supporters, our ambitions, our prejudices. He seemed to know all the personal things about every individual lawmaker and he could pull out whatever he thought was necessary to insure your cooperation at any given moment.

"Jesse Unruh was a genius in his own way, but he used a meat axe. Leo McCarthy is effective as speaker not because of strongarm tactics, but because of his powers of persuasion."

The meat axe period

Priolo believes that McCarthy has grown in the job over the past four years. "There was a time, when he was relatively new and insecure, when Leo could be ruthless," Priolo says. "After he had put the votes together to outbattle Willie Brown for the speakership in 1974, McCarthy certainly did use a meat axe for a time to establish his authority."

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For example, he stunned longtime Democratic Assemblyman Vincent Thomas, the "dean" of the Legislature, by stripping him of his chairmanship of the influential Joint Legislative Audit Committee after Thomas sided with Willie Brown in the caucus fight. Thomas was moved to a comparatively small office and downgraded in rank, despite the 34 years he had spent in the Assembly.

"I also felt the sting of Leo McCarthy," Priolo recalls. "I also sided with Willie Brown — and Leo took away my chairmanship and my ways and means, my finance and my insurance committee assignments. But I didn't cry about it, and I told him I expected that I would have to take my lumps — but that if my gamble had won I also would now 'own this place . . .' I think he liked that, and from then on, he and I got along quite well. It wasn't until I became minority leader, however, that we became close."

Although the Democrats have held heavy majorities in the Assembly ever since McCarthy has been speaker — at one time it was a two-thirds majority — Priolo believes that McCarthy was concerned by the imbalance. "Even while he was doing his best to continue to elect more Democrats," he says, "I think he worried that the state (government) would not be as effective with an inordinate amount of power in one party and the lack of a voice in the other."

Since the beginning of the current session, McCarthy has had to deal with a post-Proposition 13 crop of new Assembly members. "It's none of my business what occurs within the Republican caucus," McCarthy says. "But in the freshman class in the Assembly that came up last year there are some people who seem to be in a permanent state of belligerency. I'm hoping that with time, these individuals will learn that they can retain their own party identity and still be part of a constructive, problem-solving legislative process. I think we have a 'who can be the greater hawk' contest going on."

As for Hallett, McCarthy is withholding judgment: "The jury is still out. The former Republican leadership (Priolo) was accused of trying to be too cooperative in solving the problems that we would be solving this year in order to implement Proposition 13. The irony of it is that Paul Priolo was a very strong Republican leader who freely criticized Governor Brown and me when he thought it appropriate."

There are times when, in addition to his skill at persuasion, McCarthy resorts to the inherent power of his position. "I know of a number of legislators," Campbell says, "who were told that if they didn't vote with the speaker on a particular piece of legislation there would be no financial support from the speaker for them at the next election — or they might lose a choice committee assignment — or maybe their office might be moved to the seventh floor of the Capitol." (There are only six floors.)

When the Assembly Education Committee recently killed a major school bailout bill because the speaker wanted it killed in committee, Campbell says, "Not one Democrat voted for it — and the speaker was pretty heavy-handed with some of them. One freshman Democrat was nearly in tears, I'm told, the night before the committee hearing because she'd committed herself to some of her constituents to support the bill, and then was instructed by her party leadership to vote against it."

McCarthy insists that such a picture of his leadership is "so much baloney — a misconception of the kind of membership that we have in the Assembly today. There are a few weak members, but for the most part they are people with strong opinions who want to be individually assertive. They are not the kind of people who can be told to march in a certain direction. That's not the way you lead in today's Assembly."

Horn rims to contacts

Although McCarthy has been frank in acknowledging his hopes for higher public office — perhaps a run for the governorship or a U.S. Senate seat — he insists that he has made no decision yet and will not make one for a year or two.

"I don't want to neutralize the many controversial decisions I must make now as speaker," he says. "Much of the satisfaction I get from being speaker is taking political risks — of stating and doing unpopular things that I believe need to be said or done. If I had to couch each decision in terms of what effect it might have on what I do in 1982, I would neutralize my effectiveness and freedom of movement.

Leo McCarthy is a product of San Francisco politics, where government by consensus is a way of life for politicians dealing with dozens of factional interests. But the clout he gained in Sacramento has changed the speaker in personal ways. "He dresses differently now," Priolo says. "He was very tacky when he first came to town. He's traded in his horned-rimmed glasses for contact lenses or gold-rimmed spectacles; he now looks like a sophisticated San Franciscan. And with these external changes his personality has mellowed as well."

But one facet of his personality that has not changed is McCarthy's devotion to his family.

"The pressures here are so frantic," he explains, "that you can stagger from meeting to meeting, problem to problem, and become totally disconnected from everything that has personal value to you. So I go through an extraordinary pace every day I'm in Sacramento, but the only way I can enjoy it is to get out of here at night and back to my family."

McCarthy's wife, Jacqueline, and two sons, 13 and 12, remain at home in San Francisco. Another daughter is a senior in college and another is married. In order to be with his family at least a couple of hours a day, the speaker takes a 7 a.m. plane from San Francisco to Sacramento each morning. He is in his office by 8. At night he takes a 7:30 flight home so he can sit down to dinner with the family about 8:40.

"It helps me to keep my perspective," McCarthy says. "Even if I do no more than referee a couple of arguments between the boys at home, I'm in a different chemistry and a totally different environment from the Capitol. That is very important to me."

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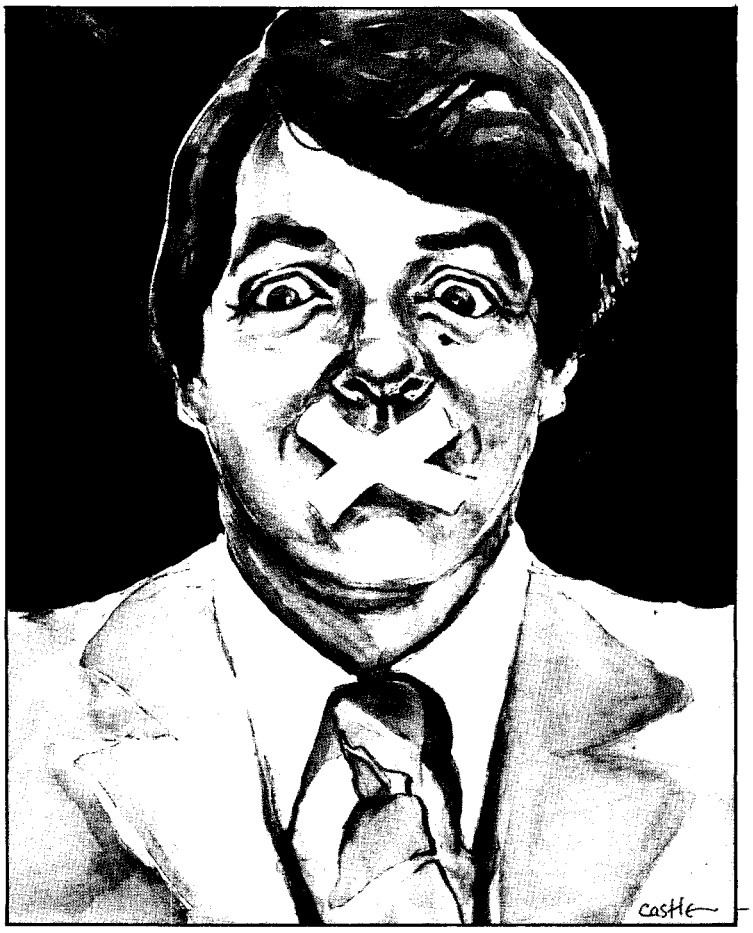
Can Mike Curb recover from his first-year fumbles?

By KATHRYN EAKER



The occasion was a board of directors meeting of the state Chamber of Commerce in a Sacramento restaurant. Lieutenant Governor Mike Curb was asked to introduce those members of the state Senate in attendance. The president of the Senate looked around and recognized only Republican Senator Robert Beverly. As Beverly recalls, Curb quietly asked Beverly if there were any more senators in the room. As it turned out, Curb was surrounded by a half dozen senators, some of them senior committee chairmen. To Curb, they were absolute strangers.

To some, that story tells a great deal about how Mike Curb has operated since his election a year ago. Beverly puts it this way: "In terms of Republican Central Committee types, he is probably high in their eyes. But within the Legislature there is a general air of amazement." Among Republican senators, it is difficult to find Curb supporters, although only a few will discuss the lieutenant governor for publication. Senator H. L. (Bill) Richardson is the exception. He finds little wrong with what Curb has been doing and says Curb needs only time to learn the ropes. Then, Richardson says, Curb will stop making errors and develop the kind of following he needs to move up the political ladder.

If Curb is spending little time in the Senate chambers, what does he do? On those mornings when the lieutenant governor is in Sacramento, he opens the workday by making telephone calls from his apartment a few blocks from the Capitol. He arrives at his office in midmorning for meetings with his staff, members of his advisory committee, legislators, members of the press and anyone who has obtained an appointment. His office is spartan — no books, photographs, paintings or personal mementos. There are few papers in evidence, and on his uncluttered desk are two telephones — one government and one private line. Curb is reluctant to discuss his daily work in detail and prefers to talk about his travels and the commissions he heads.

In the past year, he has given speeches in perhaps 40 of the state's 58 counties, often for the benefit of Republican politicians. But he has also talked to the Edmonton (Canada) Rotary Club and to the Refuse Collection Association. His wife, Linda, their baby and babysitter, and a California Highway Patrolman (driver and security guard) travel virtually everywhere with Curb. His personal appearances take perhaps a third of his time. He concedes there are other activities his wife prefers to political pump-priming, and he feels he is probably doing too much speaking. All this traveling may explain why Curb shows signs of fatigue on his boyish face — dark circles under his eyes and a tendency to massage his neck as though to relieve tension.

Handling the business

Although Curb considers his elective office a full-time job, he continues to manage his entertainment-industry assets and is consulted about major decisions concerning his record firm. This is done mostly during the one-third of his time that Curb spends in his home city of Los Angeles. During the campaign for lieutenant governor, Curb promised that he would divest himself of his business interests, and he says that he is doing just that — but on a gradual basis. The day may come, he adds, when all of his assets will have been liquified — but he doesn't really expect that to happen. He isn't about to abandon, for example, the rights to the song "You Light Up My Life."

The lieutenant governor doesn't have heavy responsibilities. He can preside over the Senate but can vote only to

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break a tie. He serves as a member of several commissions, but they are limited in power. His main job is to prepare for possible service as governor, either on a temporary or permanent basis. Even Curb's detractors — and they are not hard to find — concede that he has done a good job as head of the Commission of the Californias, which is charged with improving California-Mexico relations. Curb would like to see that commission work closely with his own agricultural advisory commission, formed during Jerry Brown's first out-of-state trip this year. Curb is pushing a "guest-worker" program designed to provide labor for California farms and reduce illegal immigration. Curb says his plan would provide taxes for California, schools for migrant children and improved health care for farm workers. Organized labor is vigorously opposed to the plan, claiming it would reinstate "slave labor" in California agriculture, similar to the defunct bracero program.

In all, Curb is a member of nine commissions and councils. He does not attend all the meetings of these groups, and he no longer participates in the activities of the State Lands Commission, which administers state-owned land and oil leases. When Curb did attend, he was invariably outvoted 2-1, so he decided there was no longer any reason to attend the meetings.

During his 1978 campaign, Curb pledged repeatedly that he would preside over the Senate regularly if he was elected lieutenant governor. He apparently decided quickly that there was no sense in keeping that pledge. Standing at the rostrum was a waste of time, and many senators resented his presence. Yet, some senators think he has gone too far in the other direction. Democrat Mervyn Dymally, the man Curb defeated, rarely presided, but he did visit the Senate chamber often to maintain social contact with the members. Most Republican senators think Curb also should make regular calls on the Senate, if only for a cup of coffee.

Conflict to preside?

Curb has been counseled otherwise. His advisers claim it would create a conflict for him to issue parliamentary rulings during the debate of a bill one day and the next day, acting as governor, be faced with the decision of whether to sign or veto the measure. But that rationale would discourage any lieutenant governor from ever exercising the constitutional duty of serving as president of the Legislature's Upper House. Legislative staffers offer another explanation: Curb is so green politically that he would probably embarrass himself if he tried to run the Senate. Curb's stay-away policy is supported by Democrat James Mills, the president pro tempore of the Senate. Comments one of Mills' Republican colleagues: "Mills just doesn't want anyone messing with his show."

Yet Curb believes he should involve himself in legislative matters — not necessarily on specific bills, but in other ways. Curb apparently prefers the internal politics of the Legislature and its leadership confrontations. Curb has made some political enemies with his role in two leadership contests, because some lawmakers resent outside intervention in their private battles. Curb replies simply, "I didn't come here to sit." And he boasts that his first major victory was helping Carol Hallett dump Paul Priolo as Assembly Republican leader.

Curb was burned when he tried the same tactic in the Senate, backing Richardson against the incumbent floor leader, William Campbell, who just happens to have his eye on the 1982 GOP gubernatorial nomination. Campbell defeated Richardson, and Curb's candidate was promptly removed as chairman of the Republican caucus. The new caucus chairman is Ken Maddy, another ambitious Republican who could be on a collision path with Curb.

Curb also takes credit for the election of Tirso del Junco as vice chairman of the state Republican Party — even though the job is not nearly as important as Hallett's or Campbell's. Actually, the victory may have hurt Curb more than it helped. Senator Richardson was backing another candidate, Kathleen Crown, and he was operating under the assumption that Curb was in the same corner. Now, some Republicans say privately that they don't trust Curb and think he has brought record-industry ethics with him to Sacramento. They say Curb will do almost anything to destroy an individual he perceives as an opponent, even within his own party.

Curb's defenders say he is not to blame because, as a novice, he must depend heavily on his staff members and advisers for help. His most intimate adviser and chief of staff is Ken Reitz, who ran the Younger-Curb campaign last year and had previously been director of the Youth-Vote division of Nixon's Committee for the Re-election of the President. In *All the President's Men*, Carl Bernstein and Bob

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Woodward claim Reitz headed a "kiddie corps" of young spies for Nixon. Has the CREEP stigma stuck with Reitz? Not insofar as Curb is concerned. He admires what Reitz did for Nixon: "While Tom Hayden was out setting fires in the streets, Ken was running the Youth Division." After completing his work for Nixon, Reitz joined Curb's recording company in Los Angeles. He then went heavily into political campaign management in California. Reitz' background as a political strategist may help explain why Curb has concentrated more on partisan matters than on governmental issues.

Once a month, Curb meets with his advisory committee — the think tank charged with keeping him on the right road to the governorship in 1982. The committee includes top staffer Reitz; Sheldon Lytton, speech writer and former chief of staff; Ed Meese, former Governor Ronald Reagan's chief of staff; Jack Courtemanche, major contributor to GOP candidates and long-time party activist; former Assemblyman Dixon Arnett; and David Murdock of Pacific Holding Company.

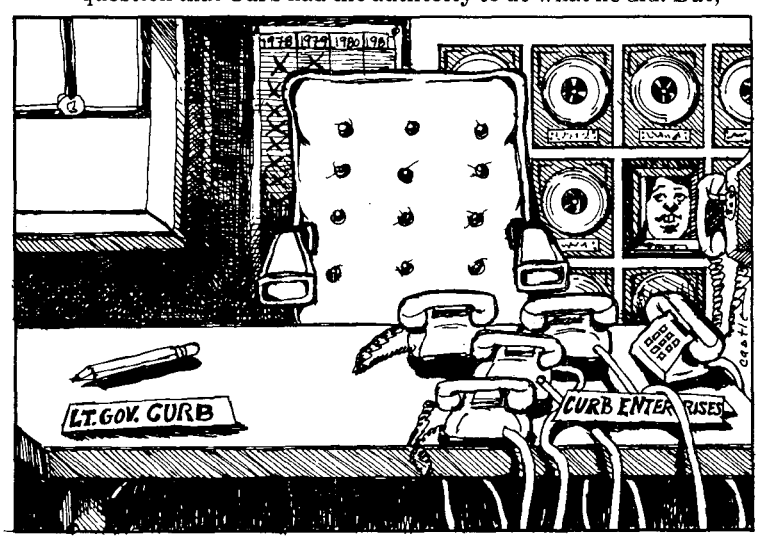
According to Lytton, the advisory board is moving Curb in a new direction — away from the purely political and toward participation in major government decisions. Why the change? The advisory group apparently adopted an old tennis adage: If one game plan doesn't win, try another. A different strategy was clearly in order after pollster Mervyn Field found last summer that 67 percent of Californians agreed with Jerry Brown that Curb's powers as acting governor should be limited. Even 57 percent of Republicans said they felt that Curb was being too zealous as pro-tem governor.

Senate Republicans conducted their own poll in a conservative section of Southern California. Two-thirds of the Democrats and about half of the Republicans had an unfavorable image of the lieutenant governor.

How, not what

Most Curb-watchers in the Senate do not find much fault with what Curb has done, but rather how he has done it. They did not object, for example, to his appointment of Judge Armand Arabian as presiding judge of the court of appeal in Los Angeles. But Curb made the action look like the move of a smart-aleck kid rather than a genuine effort to upgrade the judiciary. And signing an executive order to ease restrictions on the lead content in gasoline — done while Brown was in Washington trying to end the state's gas crisis — made Curb look like a gadfly and obstructionist.

Former Lieutenant Governor Ed Reinecke, a Republican who hankers to return to the political wars, says there is no question that Curb had the authority to do what he did. But, Reinecke says, Curb made a mistake in playing politics with that authority. Senator Beverly tends to agree with Governor Brown that the lieutenant governor should use his powers as acting governor only in the event of a true emergency. Whether Curb can exercise full powers is an issue that will soon be decided by the state Supreme Court.



Does Curb himself believe he has made mistakes? He says he hasn't been in the job long enough to evaluate his actions. Ed Meese, who ran the governor's office under Reagan, claims that Curb has brought more life to the office of lieutenant governor than it has ever known, and that Curb is trying to provide a "counter-body of opinion." For that opportunity, he has Brown to thank. If Brown didn't leave the state often to campaign for president, Curb would probably be as unknown to Californians as most of his predecessors.

The Reagan connection

During last year's election campaigns, Curb was widely identified as the darling of Ronald Reagan's kitchen cabinet. Curb was urged to run by some of the wealthy supporters of the former governor, and it was assumed they were grooming Curb to become Reagan's successor as the spokesman for the conservative wing of the Republican Party in California. More than a year later, the relationship between Reagan and Curb is less clear. Curb says he and Reagan are merely friends: "I call him from time to time to ask his advice, but then I call lots of people."

In the Senate, there are some observers who suggest that Reagan is keeping Curb at arm's length during the attorney general's investigation of charges that Curb engaged in record dealings with the Mafia. But Senator Richardson says it is Curb who is keeping Reagan at arm's length: "Reagan's star is not as bright as is believed. If he loses the next election, he will become a memory." Curb says there is nothing to the suggestions of a rift: "I'm introducing Reagan at the state central committee meeting. Does that sound like arm's length?"

If Curb plans to play down politics and play up issues, what problems will he try to tackle? Curb says he wants to work with legislators on energy and water issues. Previously a strong supporter of nuclear power, he moderated his tone after the Three Mile Island accident. Now he says that until the federal government certifies a safe nuclear-waste disposal system, a more cautious approach should be adopted. He believes the challenge ahead is to balance business and environmental interests. "Every decision must take the environment into consideration," he says. "But I wouldn't want to stop a water project to save some fish."

Despite his errors thus far, as reflected in the polls, there is agreement among Republican politicians that Curb can use his position to become the GOP gubernatorial nominee in 1982. Richardson says Curb, above all, needs to learn the difference between being an officeholder and a party politician. "He has a good sense of politics. He needs time to develop," observes Richardson. "He is raw talent. Behind that Golliwogger attitude — that gee, golly, choir-boy look — is a shrewd man."

The occasion was a friendly dinner party for officeholders and friends, hosted by one of the social kings of Sacramento, Assembly Speaker pro Tempore John Knox. At Senator Beverly's suggestion, Knox had invited Curb, and the lieutenant governor made an appearance. Reports Beverly: "There was wine, food, and Mike got along just fine. He sat around in his shirt sleeves, drank and ate, and several people were pleasantly surprised."

At that dinner party, Curb probably learned a basic lesson about politicians: They love to be around entertainment-industry celebrities like the lieutenant governor. That is because there are more frustrated entertainers among legislators than the other way around.

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Must a candidate move to LA to find political happiness?

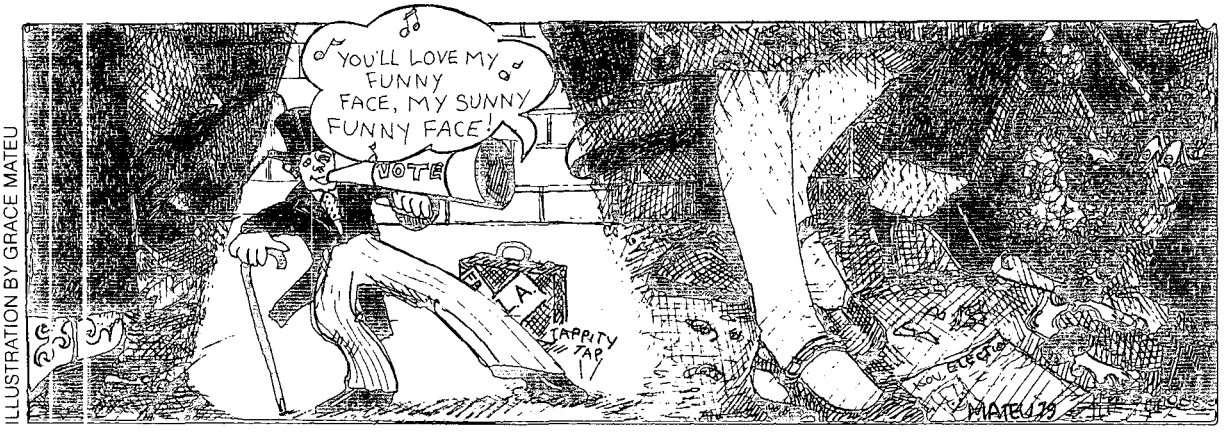

ILLUSTRATION BY GRACE MATEU

By Ed Salzman

In almost every California gubernatorial campaign, there comes a time when a candidate must take a relatively unpopular stand on an issue and would prefer that the announcement receive as little attention as possible. Solution: The announcement is made in Fresno.

Why Fresno? The city is large enough so that the candidate can hardly be accused of issuing the statement in a telephone booth. But it is anything but a political media center like Los Angeles and San Francisco, or even Sacramento and San Diego. From the standpoint of statewide political notoriety, the entire San Joaquin Valley from Bakersfield to Lodi might as well be part of Nevada.

Election results over the years would indicate that it is impossible for a candidate, regardless of how attractive, to be elected to statewide election office if he or she lives in the San Joaquin Valley. By any objective standard, state Senator Ken Maddy of Fresno is one of the most appealing Republican politicians in California today. He is articulate, mediagenic and intelligent. More importantly, he can raise plenty of money (mostly from farm interests) and can appeal to both moderate and conservative Republicans. Yet, Maddy ran a rather poor third in the GOP gubernatorial primary last year, finishing behind Evelle Younger and Ed Davis. Maddy spent more than $1 million trying to get himself known to the masses in Southern California. He feels he was doing well in the early months of the primary campaign. Then Proposition 13 took over the television tubes, and he knew he was licked (only in part because he wasn't a Jarvis-Gann supporter).

Since that time, Maddy has won a rough special election over Democrat John Thurman to take the Senate seat vacated by appellate justice George Zenovich. And Maddy was named chairman of the Senate Republican caucus only weeks after being sworn into office. Now, he is looking for another opportunity to run for governor or other major statewide office.

Normally, a potential statewide candidate from the central valley has a difficult time raising money. That's because most of the big bucks for California political campaigns are provided by the financiers of San Francisco and Los Angeles. Maddy overcame that problem by obtaining unusually high contributions from agribusiness sources, which he had befriended as an assemblyman.

Then came the most difficult problem — becoming known to the average Angeleno. "The name identification problem in Southern California is almost impossible to overcome," Maddy explains. After the election, Maddy came "within an inch" of moving to Los Angeles as a means of solving the problem. He had a position lined up with a law firm, but he decided against the move for family reasons.

High-cost exposure

There are two reasons why it is difficult for a northerner — not just a politician from the valley — to become known in the Los Angeles media market. Advertising is extremely expensive, especially television spots. And the attention that politicians get in the north does not filter down to Southern California voters through television, radio and newspaper coverage as might be expected. Maddy feels he will start ahead of some other candidate in his next run for statewide office because his 1978 campaign gave him some name identification that will hold over.

Even Secretary of State March Fong Eu, who already holds a statewide office and who has ambitions to rise higher, apparently did not feel she had a sufficient Los Angeles presence. So she moved her home from Oakland to Los Angeles (via Sacramento). Senator Alan Cranston, who hails from the San Mateo-Santa Clara peninsula area south of San Francisco, calls Los Angeles home these days.

The burden of coming from a relatively isolated area of the state is enormous for a politician. It costs millions of dollars to overcome — if indeed money can do the job. It is becoming increasingly difficult for anyone to be elected to statewide office unless they are known in the Los Angeles basin. Maddy probably would have given Jerry Brown a much more difficult campaign than either Younger or Ed Davis, but they had the advantage of extraordinary name identification in the southern metropolitan area. Coming from Fresno is that large a handicap, but perhaps no greater than coming from San Jose or San Diego.

Geographically, San Diego is as isolated as Fresno. Mayor Pete Wilson of San Diego ran for the GOP nomination for governor last year with Younger, Davis and Maddy — and finished fourth, far behind Maddy, despite his solid record in

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his home city and a vigorous campaign. San Diego is surrounded by Mexico, the Pacific Ocean, the desert and Orange County. Most residents of Orange are oriented more to Los Angeles in the north than San Diego in the south. The only San Diegan elected to statewide office was former state Treasurer Bert Betts. That happened in 1958 when all the political rules were broken. In that year, an equally rare occurrence took place: the election of a United States senator from rural California, Clair Engle of Red Bluff. Partisanship was supreme in that election, as the Democrats took control of the state after many years of GOP dominance.

There was a time when it was not extraordinary for politicians outside of the Los Angeles and San Francisco metropolitan areas to be elected to statewide office. But you have to go back more than 70 years to find the last governor from the boondocks to win an election, Eureka's James N. Gillett.

Prior to 1914, California's representatives to the United States Senate were elected by the Legislature and not the public. In those days, senators could hail from communities like Oroville and Ventura. Since 1914, however, there have been only a few from outside the two main population centers elected to the Senate. In addition to Engle, they are Sheridan Downey of Sacramento, Samuel Shortridge of Menlo Park and John Tunney of Riverside. And it can be argued that Menlo Park and Riverside are within the San Francisco and Los Angeles metropolitan areas.

Some politicians develop the advantage of being considered residents of more than one community. Hiram Johnson was from Sacramento and San Francisco. Jerry Brown has roots all over the state — San Francisco, Los Angeles, Sacramento, Berkeley and Santa Clara County. March Fong Eu and Alan Cranston are following suit.

The LA monopoly

A look at the results of recent elections would indicate that it is becoming increasingly difficult for anyone outside Los Angeles to win a statewide race unless there are some special circumstances:

- ***All lieutenant governors*** elected since 1958 have come from Los Angeles.
- ***Three of the last four*** attorneys general sprang from bases in Los Angeles. The fourth, Tom Lynch of San Francisco, was appointed to the post and then won it as an incumbent.
- ***In the last four*** elections, the controllers and treasurers have all come from the southern metropolis. (In 1958, Cranston was chosen controller and Betts treasurer as part of a "balanced" Democratic ticket.)

The pattern is more difficult to establish for secretary of state. That is partly because the office was held for nearly an eternity, ending in 1966, by the Frank Jordans, father and son. The senior Jordan was from Alameda, an island city off Oakland; the son spent most of his life in the Sacramento area. The junior Jordan was followed by Mr. Everywhere, Jerry Brown. He was succeeded by Fong Eu, then an assemblywoman from Oakland. Fong Eu won because the bulk of the Democratic primary vote in the south was divided between two other major candidates, Walter Karabian and Cathy O'Neill.

At times, northerners win party primaries with surprising ease. But these are often in races which the party expects to lose. In 1978, the Republican ticket included two Contra Costa residents, Don French and Jacob Margosian. In 1974, there were three northerners, Bill Bagley of Marin, Brian Van Camp and John Kehoe of Sacramento. Bagley had the best chance of winning, but Cory's southern connection helped him win despite the heavy publicity given the source of his campaign funds.

Does all this mean that southerners are parochial voters who insist on putting their own into office? Perhaps more than any California politician, Maddy has analyzed the problems of a northerner selling himself in Los Angeles. His conclusion: Southerners are not parochial. They will vote for a northerner once they get to know him or her. Northerners, on the other hand, tend to be more clannish and are less apt to support a southerner against one of their own.

Maddy emphasizes that even some southerners holding legislative offices face name-identification problems in Los Angeles. He feels that politicians in Sacramento often get deluded into believing that their legislative activities are getting them the kind of attention they need if they are to be successful statewide candidates. That's because work in the Capitol goes largely unseen in Los Angeles and even in the San Francisco Bay Area. Just because there is a large press corps in Sacramento covering politics does not mean that those holding leadership positions in the Capitol automatically become household names via the television tube.

Campbell's problem

Take the case of Assemblyman Paul Priolo, who served as the Assembly Republican leader for more than three years, 1976 through a portion of 1979. He did a magnificent job of using the position to obtain publicity, most of it favorable. He was an early vocal supporter of Proposition 13. He did just about everything right — insofar as promotion of his name identification was concerned. (If he had done just as good a job feeding the egos of his colleagues, he would probably still be minority leader instead of Carol Hallett.) Priolo decided that the time was ripe to parlay his clippings into a run for the United States Senate. The polls showed that his name identification was a miniscule 6 percent. He has since decided that the attempt is hopeless and he is hunting for a way to keep his political career moving.

Senate Republican leader Bill Campbell faces the same problem. He has already made it known that he intends to run for governor in 1982. Although he has served for many years as a legislator from Los Angeles and even ran for board of supervisors once, he is finding that he doesn't have any better name identification than Priolo. In fact, Assembly Republican leader Carol Hallett, who lives in remote San Luis Obispo County, may be better known than either of them. That's because she is the first woman ever elected to such a high legislative office and has attracted a great deal of attention, almost as though she is a show-biz character.

That apparently is now the key to success in statewide California politics — the possession or acquisition of some kind of a magic name. The most successful statewide politicians these days appear to be those who become known to the public either because they have traditional political names or because they have achieved notoriety through show business or other non-political activities.

This is especially true in the Republican Party, with the likes of Ronald Reagan, Mike Curb, George Murphy and S. I. Hayakawa. In every instance, the voters selected them over candidates from the state's political mainstream. Jerry Brown is the first to admit that he would be in his political infancy if his name were Green.

What does that say about the future? First, it says that Congressman John Rousselot and state Senator John Schmitz might as well fold their 1980 Senate campaigns should a magic name like Barry Goldwater Jr. enter the race. It means that ambitious politicians should no longer look upon legislative offices as decent stepping stones. It tells us that Mayor Tom Bradley of Los Angeles must be rated a formidable contender for the Democratic gubernatorial nomination in 1982.

And it tells Fresnans that if they aspire to high political office they had better forget the path followed by Ken Maddy and instead follow the lead of such other Fresnans as Cher Bono, Mike (Mannix) Connors and Tom Seaver.

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The Orange County uproar over Supervisor Ed Miller

By LARRY PETERSON

Governor Brown has had the political pundits working overtime trying to explain the hows and whys of his appointment of Edison Miller to an Orange County supervisor post.

Although there were signs that the governor was seriously considering the 48-year-old attorney, the appointment took all but a few insiders by surprise. With Miller's selection, Brown touched off a bitter rhetorical replay of the Vietnam War debate. He also angered many of the Orange County party leaders who last year helped him become the first Democratic gubernatorial candidate to carry the county.

The controversy over Miller's appointment was inevitable but not unprecedented. Last January, Governor Brown appointed an ex-convict, Chris Matthews, to serve out the remaining term of a conservative Santa Cruz County supervisor, the late Cecil Smith. That appointment, like Miller's, came at the request of activist Tom Hayden and stirred a storm of protest.

"At least (Miller) is a lawyer and a war hero," said Santa Cruz board chairwoman Marilyn Liddicoat. "Matthews is just a disgrace."

Tapes from prison

Miller, a much-decorated Marine lieutenant colonel who flew 70 combat missions before being shot down over North Vietnam, was censured by the military for allegedly collaborating with his captors while a prisoner of war — a charge he vehemently denies. He was never formally charged, and he retired with full benefits from the Marines. Accounts of what took place within the North Vietnamese prison vary considerably, but Miller openly admits having made — out of conviction — tapes denouncing American participation in the war as "immoral and illegal."

He also admits having met, while a POW, with actress-activist Jane Fonda, who was denouncing the American war effort in even more strident terms. It was the support of Fonda and her husband, Hayden, which weighed heavily in Miller's favor with Governor Brown.

The appointment landed like a bomb in normally conservative Orange County. Three appointees to county boards and commissions resigned, saying they would rather quit than work with Miller. Veterans' groups and various members of local city councils pledged support for an effort to recall the new supervisor. (That prospect appeared to fade when it was learned that a recall action could not be mounted until Miller had been in office for three months. Miller must stand for re-election next June.) The list of those vowing to oppose Miller next year grew almost daily. State lawmakers and congressmen held press conferences denouncing Miller as a traitor.

For the Democratic party leaders and state lawmakers, Miller's selection was a slap in the face by Brown. State party chairman Richard O'Neill complained that the governor thought more of Hayden and Fonda's advice than he did of counsel from his own party chairman. Similar criticism came from Assemblyman Richard Robinson, Senator Paul Carpenter and Bruce Lee, a high-ranking United Auto Workers official and member of the national executive committee of the Democratic Party. The near-unanimous advice of local party regulars and numerous Democratic lawmakers outside Orange County, including Assembly majority leader Howard Berman, was that Brown should have appointed former Assemblyman Ron Cordova, who had been defeated last November by Republican John Schmidt for the 36th District state Senate seat. Cordova, elected to the Assembly in a heavily Republican district in

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1976, had earned widespread respect during his two-year stint in Sacramento. Moreover, it was believed that his fiscal conservatism would wear well in the right-of-center district, which overlaps much of the Senate district represented by Republican John Briggs.

The bitterness of the party leaders was aggravated by the widespread belief that Brown, as long ago as last December, had promised to appoint Cordova if Supervisor Ralph Diedrich, under indictment for bribery, should lose his office. Gray Davis, Brown's chief of staff, has denied that such a promise was ever made. But by January — well before Miller surfaced as a contender — the alleged commitment was common knowledge in Orange County Democratic circles.

The game plan

Miller, a law partner in Santa Ana with Democrat Robert Music, had his own game plan. Tall, handsome and affable, Miller had found that his POW background was no impediment to getting elected vice chairman of the Orange County Democratic Central Committee in January. He says he began toying with the idea of running for Diedrich's seat two years ago and "really got serious" when Diedrich, under indictment, announced he wouldn't seek re-election. "My whole program," he said, "was to run in 1980, but my timetable was speeded up in January when it became apparent to me that Diedrich had had it, that he didn't have a 10 percent chance of beating the rap."

Miller began making the rounds of party leaders. He found that most were solidly behind Cordova, but he says he got some of them to regard him as their second choice. Miller did win the endorsement of the North Orange County Democratic Club, headed by one-time Assembly candidate Chris Loumakis, whom Miller has since named as his top aide. As early as March, Miller was circulating the word that he was a serious contender for the appointment because he had the support of Fonda and Hayden. Meanwhile Diedrich, as quoted by a local newspaper, went public with the reported commitment by Brown to name Cordova to this seat, hinting at the possibility of a "deal." The following week, O'Neill publicly backed Cordova for the post.

After Diedrich was convicted in late May, Brown sent Carlotta Mellon, his appointments secretary, to Orange County to interview nine candidates for the office, among them Miller and Cordova. By this time, at least two other candidates had surfaced: Orange Councilman Jess Perez, the favorite of local Hispanic activists, and La Habra Councilwoman Robin Young, who garnered the support of Los Angeles Mayor Tom Bradley. Then the UAW's Lee, who had been backing Cordova from the start, named attorney and women's rights activist Elaine Weinberg as his co-favorite along with Cordova.

If Brown was feeling pressure to appoint a woman or a minority group member, he relieved it by naming former Congresswoman Yvonne Brathwaite Burke to a Los Angeles County supervisorial vacancy. By late June Brown had narrowed down his Orange County list to three candidates — Cordova, Miller and Young. Miller concedes that Hayden and perhaps Fonda were instrumental in getting him on the list of finalists. Each contender was interviewed by Brown during the first week of July, and Brown was reportedly very favorably impressed with Miller. Miller came back to Orange County from his meeting with Brown exuding confidence. Cordova, who had admitted only mild concerns about Miller's maneuverings, was worried. Assemblyman Dennis Mangers recalls that he was aware that "things were falling apart" for Cordova about two weeks before Miller was appointed.

In early July, Brown was leaning toward Miller, but he was concerned about the potential backlash because of Miller's POW background. He summoned the new front-runner

back to the capital for a complete briefing on, as one administration insider explained, "every single thing that could be used against him." The governor was clearly concerned about the potential political fallout, and he at least considered naming Lee or O'Neill to the post. Lee, the UAW heavyweight, says Brown offered him the post but that he declined, saying that his union post and Democratic Party position could prove a liability for both himself and Brown if he were named to the ostensibly non-partisan supervisorial position. O'Neill, too, has indicated that Brown made overtures to him concerning the position. But Gray Davis insists that Brown never offered the job to either man. All Brown said, Davis says, was that "Bruce Lee and Richard O'Neill are two of my good friends in Orange County, and if either of them expressed interest in the appointment, their candidacies would be seriously considered." Since neither expressed interest in the post, no offer was made, Davis says. Whether Brown was serious or not, both Lee and O'Neill have since indicated that they wish they had taken Brown up on the proposal.

An 'agonized' governor

Around midnight on Thursday, July 12th, Brown — who stayed up most of the night working on the state budget — reportedly phoned Miller to tell him he was the one. But Assemblyman Robinson says that as late as 1:30 Friday afternoon, Brown professed not to have made up his mind. "There was no question in my mind," Robinson says, "that Jerry agonized over this one. He was perspiring and wringing his hands. He was not his Socratic self, hopping from subject to subject. He wasn't asking those rhetorical questions." Nevertheless, by 3:30 Davis was on the phone informing big contributors in Orange County that Miller was in. The official announcement came hours later, after Brown had left Sacramento for a governors' conference in Cleveland.

How important was the Fonda-Hayden connection? The week before the appointment, rumors circulated that, in exchange for the Miller appointment, Hayden and Fonda had pledged to raise $3 million for Brown's presidential nomination bid. State Senator Schmitz recently elaborated on the same theme, suggesting that the pair will help bankroll the governor's campaign by enlisting their show business friends for a series of rock concerts and other benefit performances. Brown, Fonda and Hayden have adamantly denied that there was any deal struck.

For his part, Miller acknowledges that Fonda and Hayden

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may work for Brown, but he says that has nothing to do with his appointment. "Tom Hayden," he said, "made it clear the CED (Campaign for Economic Democracy) did not consider the appointment a life-and-death matter . . . If it (Hayden-Fonda fund-raising for Brown) comes about, it's because of the relationship between Tom Hayden, Jane Fonda and Jerry Brown."

But, by the same token, Robinson recalls that Brown has told him at least twice that he considers the friendship and support of Fonda "very important" to him.

Miller spent his first days in office attempting to refute attacks on his war record and the Hayden-Fonda connection. By the end of the first week he was visibly weary of repeating answers which, like the questions, had become a sort of litany. By the end of his fifth week, he quit granting interviews on his POW experiences, saying that just about all there was to say had been said and was on the record.

But before that — during his second week in office — Miller launched a campaign which an aide candidly described as intended to direct attention away from his controversial past to his current supervisorial role. In a move reminiscent of Brown's own first days in office, Miller announced that he and his staff were taking a 10 percent pay cut. The new supervisor further urged that the 351 county employees who were paid more than the $29,898 earned by supervisors take a similar pay cut, so that lower-paid county workers could get more. The proposal, which would have yielded the rest of the county work force a pay hike averaging less than $3 a week, was branded as grandstanding by other supervisors. Miller conceded that it had no immediate prospect of being implemented, saying it was largely symbolic. Nevertheless, he succeeded in getting people to talk about Ed Miller the supervisor instead of Colonel Edison Miller, the controversial POW.

No point man

From his first vote, Diedrich's successor made it clear that he was not to be a predictable point man for the Hayden-Fonda regulationist populism of CED. He cast the deciding vote against a proposal that would have imposed new burdens on developers. This prompted Supervisor Thomas Riley, in a pun ostensibly intended to inform his new colleague on the use of the board's electronic voting equipment, to comment, "Supervisor Miller, the yes button is on the total left."

Though a member of CED from whose ranks he has drawn some of his staff and appointments to boards and commissions, Miller spurns identification with its political agenda. "Those people," he said referring to those who had predicted knee-jerk radicalism from him, "are going to be surprised. They'll find I'm a lot more independent than anyone thinks." If that proves to be the case, he will add an element of unpredictability to the board. Because it is evenly divided on many liberal-conservative issues, he may often be the swing vote.

Miller insists that he is not very different from most of the people he has met during the seven years he has lived in the county. He describes his medium-sized suburban home, his Mercury Cougar, his TV-watching habits, and his concern over the encounters his children may have with boredom, the drug culture, lack of job opportunities and skyrocketing housing costs. He also bemoans the "general erosion of values and direction in our society, (which was) founded on hard work, self-reliance and sticking together in the face of adversity."

Miller served notice immediately that he would not necessarily play by established board traditions, such as following the lead of a supervisor on an issue that mainly involves his or her district. Miller calls that the "old buddy system."

The new supervisor, who had been studying county budget proposals for almost a month before his appointment, zeroed in early on administrative costs in county social programs. He claimed that despite Proposition 13, the county was continuing "business as usual" and "heading for a showdown between laying off hundreds and drastically curtailing programs, or massively increasing taxes and fanning a new tax revolt."

Lining up

Miller knows well that he faces an upcoming election battle against what many consider unbeatable odds. State chairman O'Neill, county chairman Bill Thom and Assemblymen Mangers and Robinson agree that he has two chances: slim and none. Although not saying whether he'll be a candidate, Cordova has vowed to work for Miller's defeat. Compared to the outrage of the Democrats, the Republican reaction has been relatively moderate, probably because many of them view Miller as the least electable person Brown could have named. Besides, adds Dennis Catron, past president of the California Republican Assembly, there is no pressing need for Republicans to get involved in the furor "because the Democrats are already screaming loud enough."

If Cordova is reticent about committing himself to run against Miller, other Democrats are not. They include Perez and former planning commissioner Shirley Grindle, the chief backer of a much-vaunted county political reform measure. But the early favorite is a Republican: former Brea Mayor Rex Gaede, who had been appointed a county planning commissioner by Diedrich last year but who resigned in protest over the Miller appointment. Despite Democrat Diedrich's two successful campaigns, the northeast county district Miller represents has a Republican voter registration edge and a conservative voting history. Orange Republican Assemblyman Bruce Nestande also has said he may run against Miller. His fellow assemblyman from Santa Ana, Democrat Robinson, says he'll support Nestande.

Meanwhile, Miller continues to claim that he could have been elected to an open seat next year without the Brown appointment. Before the end of the year, he predicts, the federal government will rescind the letter censuring his conduct as a POW. And he says that voters will recognize by election time that he is coming to grips with problems which other politicians have refused to face up to. Miller also has begun a fence-mending job with Democratic leaders and has announced plans to amass a war chest of $250,000 for the primary. He and his aides insist that Miller — not Fonda and Hayden — will be doing the fund raising.

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STRICTLY OPINION

With this column, the ***Journal*** *provides a forum for Californians wishing to express a variety of opinions on state political issues. Inquiries about possible future columns are encouraged.*

Government by clique

By ROBIN YOUNG

In the last session of the state Legislature, a bill was introduced that would have sanctioned a fundamental change in the nature of local government in California. The bill would have permitted ballot designation by party for candidates in city, county and school board races. To the relief of many who saw this bill as furthering an unhealthy trend, the proposal was defeated. But the fact remains that some communities are experiencing a definite increase of partisan activity in their local affairs. Of course, demonstrations of party loyalty tend to multiply in the frenzy of presidential election years, but these feelings have no place in the day-to-day administration of our cities and schools.

The dynamics may be subtle but the threat is real enough. Secure in the knowledge that "there is no Republican or Democratic way to pave a street," some observers tend to forget that partisan practices can have unfortunate effects. These include:

- **The captive vote.** Once elected, an official should endeavor to represent his or her entire constituency. An official who is the captive of any one group and votes its stand on every issue is as ineffective as the single-issue incumbent. If partisan supporters are granted exclusive access to elected officials, "government by clique" can result. Members of groups not so favored sense their impotency in the system. With a sense of frustration or anger, they turn away.
- **District control.** In all but very large geographic areas, electing board members at large instead of by district increases the chance that some member will listen to a "non-clique" voice. But if the members of a board or council are as alike as peas in a pod, there is no representative for significant numbers of people. This is not as farfetched as it may seem. Low voter turnouts in local district elections make it statistically possible for only 2 or 3 percent of the voting population to select a candidate.
- **Inbred thinking.** Concerted attempts have been made by political parties to take over every seat on certain councils and boards. It is not unknown for towns to have councils composed almost entirely of members of the same fraternal organization or service club. There is no danger in this if the individuals are dedicated to representing all viewpoints. Still, the preferable situation would be one in which candidates with differing partisan, religious, ethnic and social views can compete.

What are the symptoms of government by clique? A checklist for local elected officials should include some basic questions. Do the officials, for example:

Talk to the same people all the time?

Provide leadership only to their own segment of the community?

Favor the interests of their party over the best interests of the community?

Discount those points of view not held by their friends?

Systematically restrain from positions of leadership anyone with a different viewpoint?

Appoint only party members to commissions and committees?

Require that all appointees think and act as they themselves do?

Divide among themselves all the remunerative assignments, leaving only the nonpaying ones to others?

Associate only with colleagues of the same party?

The only cure for such symptoms is public awareness. The commission appointment process can be opened up by requiring public announcements of vacancies and application by any interested person — not just those in the "old boy network." Slates of "non-clique" candidates can be formed and supported. And we can pledge ourselves not to tamper — personally or legislatively — with a non-partisan electoral process that has served local government well for many years.

Robin Young is a city council member in La Habra.

The Mystery of the '79 Roster

We don't know why, but there has been an unprecedented demand for the **California Journal Roster and Government Guide** this year. Two printings of the 1979 edition have already sold out, and the third is moving rapidly. We recommend that organizations planning to use the Roster order now to guarantee an adequate supply.

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Despite promotion by the Brown Administration and a substantial state income-tax credit, there has not been rapid progress toward a

By Kerry Drager

In 1200 A.D. the Pueblo Indians in the southwestern United States used passive solar design to heat and cool their homes. Today, nearly 800 years later, Americans are seeking again to capture the sun's energy. The cost of nonrenewable energy sources is skyrocketing. And the United States, once self-sufficient in petroleum, is now alarmingly dependent on foreign oil.

Ever since the Brown Administration took over in 1975, California has been a professed leader in the advancement of solar energy. Offices in state agencies have been established to promote its use. There are requirements that new state buildings use solar water heaters. A 55 percent state tax credit for solar installations is expected to produce an increase of 50,000 residential solar systems during 1979.

But not everyone is convinced that the state is progressing fast enough toward a "solar California." The tax credit and state building code are legislative remnants from 1977. Since then, critics say, significant solar legislation has barely trickled out of the Capitol. Fuel shortages, rising gas prices and Three Mile Island have done little to accelerate the move toward solar uses.

"Frankly, I've been pretty discouraged by what seems to be a real ignoring of the potential that solar can play for providing a stable, diversified energy supply resource for California," says Alan H. Mirviss of Solar Use Now for Resources and Employment (SUNRAE). "Government hasn't been setting an example. The time has clearly come to stop paying lip service to these assured renewable resources and start developing them."

Slow growth

A SUNRAE analysis, completed earlier this year, showed that of all solar bills introduced by the Legislature over the previous six years, only $26.3 million was appropriated out of a proposed $516 million in funding. "Until recently, the Legislature didn't take solar seriously," Mirviss says. "At least today they are willing to admit that solar exists. But there is still a strong belief that it is somehow very expensive and still 'just around the corner' from being really cost-effective."

The governor's Office of Appropriate Technology offers some possible reasons for the slow growth of solar: Essentially, it's because the demand isn't there. Why that is true is complicated. It probably has to do with public awareness of solar development being low, solar boosters' expectations being high, governmental subsidies for research and development being low, traditional energy still being relatively cheap, and financial institutions being skeptical and slow to change.

Solar experts insist that their energy source is "here and now." Kathryn Ramsay, project manager of the state Department of Consumer Affairs' Solar and Insulation Unit, notes: "All of the solar heating systems now available, whether simple or complex, can provide domestic hot water and space heating. But some systems are more suitable than others, depending on individual needs, budgets and the actual system design."

Solar energy systems use the sun's heat either passively or actively. In a passive system, the home itself collects and stores heat. Passive systems use basic home-design features, including large south-facing windows, attached greenhouses, natural ventilation and planned use of landscape.

Image problem

Active systems use basic plumbing equipment such as tanks, pumps and collector panels. Adding a solar system to an existing home is commonly called a "retrofit." A "hybrid" home combines active and passive systems.

Jeff Reiss of Solar Future, a Sacramento-based solar promotion group, is convinced there is a solar image problem: "When you say solar energy, the public has these different visions — that it's in the future and that it costs too much. But a new house constructed today — if it's done correctly — can provide solar space heating and cooling at a lower installed cost than without it, considering the tax credit and other things that are available."

There are some encouraging signs for solar enthusiasts:

- ***It is technologically possible*** today to generate electricity using photovoltaic solar cells, wind turbines and solar thermal electric (steam turbine) systems.
- ***As mass production*** and technological innovation bring costs down, solar cells may be used by the mid-1980s to generate electricity for households and utilities throughout California.
- ***And Stanford Research Institute*** scientists recently reported that they have discovered how to produce silicon, a key component of solar cells, at a greatly reduced cost — a breakthrough they claim could hasten the day of economical solar power.
- There are other studies that indicate a solar California could get by with few, if any, new power plants in

Kerry Drager is a free-lance writer in Sacramento.

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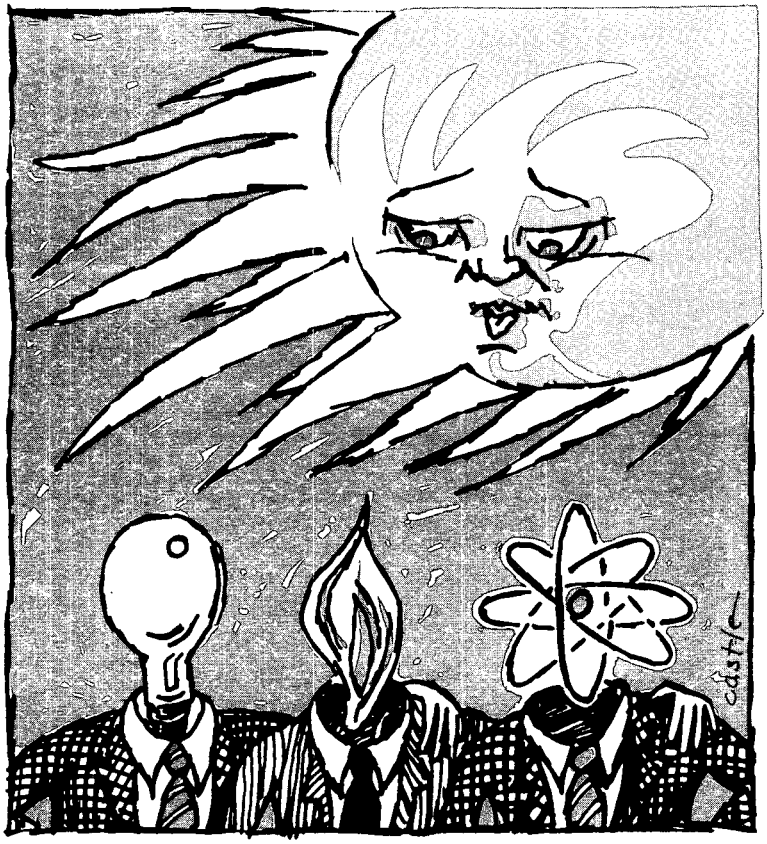

the future. That excites opponents of nuclear power who want to prove new nuclear plants are not needed.

The state's role in promoting solar energy is still rather new. The Office of Appropriate Technology manages a passive solar design competition for builders and architects, sponsored by the Energy Commission. "We're encouraging architects and builders to learn the principles of passive solar design," says OAT's Mary Lou Van Deventer. "And as people are discovering the principles, they are discovering that they are workable now and that they are economical. They are becoming more economical every day as petroleum prices and fossil fuels get more expensive."

Tax-credit claims for solar installations provide some information on the trend, but the Franchise Tax Board statistics are not up-to-date; returns for 1978 have yet to be tabulated. In the solar tax write-off's first year, 1977, more than 13,000 individual taxpayers used the credit, for a total state solar subsidy of $10.5 million. The estimate for 1978 is 25,000 to 30,000 claims filed, according to John Holland, director of Cal Seal, a solar tax-credit assistance program. The Solar Business Office within the Business and Transportation Agency has predicted 50,000 new solar installations this year.

One key problem with solar expansion is how to finance it. Americans are accustomed to a system of paying for fuels on a monthly basis as they are used. However, solar use is financed with an initial investment for equipment or design, with occasional expenses afterward for maintenance or repair. The fuel itself is free.

Interest and complaints

So making solar startup affordable is essential, says Jerry Yudelson, director of the Solar Business Office. "We're working with lending institutions, trying to get them to have special loan terms for consumers who buy solar energy systems. We need further legislative work in the area of solar access — making sure that when new housing is built it's available for solar retrofitting if it doesn't already have solar on it now. In the tax credit, we need to make it a rebate rather than a credit, so that people who don't have high incomes and who don't pay a lot of state taxes can still get the benefits."

As fuel costs and potential energy shortages increase, so does consumer interest in solar energy:

- ***There are now*** more than 200 solar system distributors, dealers and contractors and more than 100 solar equipment manufacturers in California.
- ***Many authorities*** predict that 1980 sales will reach $175 million and that in 1985 solar sales will top $500 million, not including inflation.

But consumer complaints have been rising as solar use increases. The Department of Consumer Affairs, in cooperation with the Energy Commission, has a mediation program for solar complaints. Consumers can call a toll free, hot-line number. And the Solar and Insulation Unit provides a checklist that the consumer can use in selecting a solar installation firm.

"There are many good systems out there, but there are a lot of people just getting into it who don't understand the basics of solar," Kathryn Ramsay says. "The people who seem to be buying solar are so trusting and are going with the first thing they find. But solar does take more time to investigate to find out what you want."

Role of utilities

Other aid for solar buyers is through Cal Seal, a joint program of the California Solar Energy Industries Association (CAL SEIA) and the Energy Commission. Cal Seal reviews the technical information on an installed solar energy system and determines whether the technical requirements, promulgated by the Energy Commission, have been met. "The requirements can be very baffling to people," John Holland notes. "This is a way to help buyers qualify for the tax credit."

In recent months, the utility companies' role in marketing solar energy systems has been much-debated. The Public Utilities Commission has held hearings on two basic questions: Can California's investor-owned utilities manufacture, market, install, lease and service solar systems without monopolizing the industry? And how should those solar systems be financed?

Some utilities already have entered the solar field. Pacific Gas and Electric Company, for example, has constructed nine solar homes in cooperation with Northern and Central California builders. Each home is open for public inspection for three months to a year following its opening. After they are sold, PG&E continues to monitor the solar systems' performance for up to four years. The homes have passive, active or hybrid systems and provide nearly all space, water and pool heating.

The state's goal is more ambitious: 1.5 million solar installations on 20 percent of California's housing by 1985. If Californians meet that goal — installing 1.45 million units in the next five or six years — the Energy Commission and Solar Business Office estimate that the state's solar industry will employ 50,000 persons in designing, manufacturing, sales, installation and maintenance. That is more than the total current employment rolls of all of California's utilities, according to the Office of Appropriate Technology.

"But it's not just pushing the technology," the Energy Commission's Jan Hamrin says. "You've got to have building officials who can inspect it, planners who can plan for it, realtors who can sell it and the Department of Consumer Affairs who can deal with any problems. I first got involved with solar four years ago and nobody knew what I was talking about, let alone what passive solar was. I think we have made excellent strides.

The local push

"However, as far as getting to a goal — whether it's 1.5 million installations or 20 percent of the total energy — we're going to need some additional boosts, additional policy

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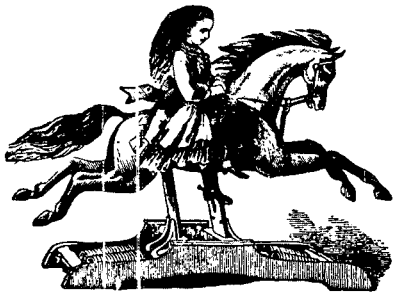
directions, to get us there. If we want to do this within the next five to 10 years, we'll need more help, particularly in the area of financing, and some incentive programs. And if you want to increase the rate of (solar) penetration, then that may point toward mandating or other kinds of requirements."

On the local level such mandating already is occurring. San Diego County became the first local government in the nation to adopt a solar ordinance, and Santa Barbara County has followed suit. Many other counties and cities have, or are considering, similar ordinances requiring solar water heating and/or pool heating in new residential construction. In the city of Davis a mandatory conservation requirement makes solar attractive to builders.

Thus, while the state is lagging behind in solar legislation, local governments are becoming leaders of solar's advancement. Says Judy Corbett of Western SUN, a federally sponsored, state-administered program: "The state keeps trying to do something and it just keeps dying in committees, because the lobbies are too strong against it. The local governments seem to be able to say, 'Yes, I know builders and swimming pool contractors don't like this, but something has to be done.' The (anti-solar) lobby is less strong in local jurisdictions."

SUNRAE's Alan Mirviss says: "It was the backyard inventors, tinkerers and the do-it-yourselfers of 10 years ago who literally forced the issue of solar energy, by consistently showing that the outrageous costs that were being projected for solar systems — and the whole realm of renewable resources technology — were totally absurd. The locals are going to play a catalyst role for the next year or two, until we can essentially shame the state and federal governments into again moving forward and picking up the lead that has been developed on the local level."



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NEW BROWN ENVIRONMENTAL SECRETARY

MARY NICHOLS

A BREATH OF FRESH AIR ON THE ARB OR A 'FEMALE IMPERSONATOR' OF TOM QUINN?

By VIRGINIA V. KIDD

When Mary Nichols was graduated from Cornell University in 1966, she landed a job as one of the first female editorial interns at the *Wall Street Journal*. She stuck it out for two years, but she wasn't happy.

"I'm too oriented to getting things done, rather than being an observer," she says. So she quit, went to Yale law school, joined a public-interest law firm and started work on environmental issues.

A decade later, Nichols is the new chairwoman of the state's Air Resources Board and also Governor Brown's new Secretary for Environmental Protection. "Getting things done" in both jobs will be complicated by politics, energy shortages and a general pendulum-swing away from environmental controls.

The ARB chief faces enormous problems keeping the state's push for a clean environment in gear. Currently there are strong pressures for relaxation of smog standards in favor of stretching motor vehicle fuel. Environmentalists appear confident that the 34-year-old Nichols can defend the clean-air faith. But some legislators are less happy with her appointment.

Dead or dying?

Nichols is a strong advocate of mandatory annual testing of automobile pollution systems, a stand that almost cost her the ARB chair. Her appointment was confirmed on a vote of 21-11, the bare majority required in the 40-member Senate. The opposition was led by Senator John Briggs, who not so coincidentally authored the resolution asking the federal government to give California another year to institute a vehicle-inspection system. At one point, Briggs called Nichols "a female impersonator of Tom Quinn," her predecessor. He accused Governor Brown of "plotting against the Legislature" and urged the rejection of Nichols so that the governor would appoint "someone more responsible" — or less committed to enviromnental programs.

"The biggest problem I'm up against," she admits, "is the sense that some people have that the environmental movement is dead or dying — that the public does not want to support tough enivornmental programs. I think that's untrue, but I think there is a propaganda effort that has been made by industry. There certainly have been some developments in the past couple of years — the gas crisis being the most obvious — that have given some interested parties the excuse to talk about how we ought to abandon our environmental programs or weaken them in order to produce more energy. That's where the push is coming from."

For Nichols, work on the Air Resources Board is nothing new; she served on the board for three years, from 1975 to 1978. As ARB chief and as a member of the governor's cabinet, she replaces Quinn, who quit both posts this summer to become director of the Brown-for-president committee.

But Nichols' style differs sharply from Quinn's, even though their goals are similar. Bill Sessa, the ARB public information officer, says, "I don't think policies will change. I think the tone will change, reflecting the differences in Mary's perspective and Tom's. Tom came from a layman's perspective and presented environmental issues in language the layman could understand — often with a dramatic flair. Mary comes from a legal background. She is almost as aggressive as Tom in what she wants to accomplish, but people may feel she is more cooperative. There will be not so much a substantive difference as a change in image."

Former ARB member Gladys Meade of the California Lung Association agrees. She suggests that Quinn was media oriented, I was often identified with Brown Administration policies and had poor relations with the Legislature. Nichols may succeed in arenas where Quinn failed, Meade says.

Nichols acknowledges that her techniques and emphasis will

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differ from Quinn's: "I think our policies end up in the same place in general, but I have a much stronger interest in the water program, in the solid waste program — looking at ways of trying to make the three agencies work together more effectively. I want to look at all the papers that come into the office. That's unlike Tom, who would focus on a key crisis issue and pursue it for days at a time and not look at anything else that was going on. At least in the beginning, I want to look at everything that's coming to me and decide who's going to handle it and how it's going to be handled."

But her long-range priority is clear: planning for growth during the next two decades. "There is going to be growth of some kind," she says. "We're an agency with a tremendous amount of regulatory power — veto power, in effect — over where new power plants can be located, new industries can be located, new freeways can be built. And we cannot just sit back and say, 'Okay, you bring us a plan and we'll tell you whether you can do it or not and we're not going to give you any hints.'

"It seems to me we have to start to develop our own vision of what ought to take place from an air-quality point of view — and then get together with other agencies and institutions that have their own perspectives and try to work something out."

From Russian to smog

Though terms such as "fuel economy" and "emission performance" roll easily off the tongue of California's environmental chief today, they could hardly have been anticipated in the mid-'60s when she was a student of Russian literature at Cornell. Her father was an engineering professor there and Nichols was raised in Ithaca, New York. She also wrote poetry, edited a literary journal and, before graduating *cum laude*, worked for the university news bureau.

Although not a radical feminist, she insisted on keeping her own name when she married in 1970. Her husband is John Daub, an attorney in Los Angeles, and they have two young children.

Nichols must juggle a hectic weekly schedule: two days a week in Sacramento, two days in Los Angeles, one on the road in San Diego or San Francisco. To help with their children — Nicholas, 4½, and Margaret, almost one — she hires live-in help, a 25-year-old "nanny" from England. And when necessary, Nichols integrates her children into her work. She was appointed to the ARB soon after Nicholas was born, so she took him to her first board meeting in January 1975.

"I had a little bassinet kind of thing that folded up into a suitcase that I took along with me," she recalls. "That evening I was just going to order room service, but I ran into friends who said, 'Oh, no, we're used to kids. Why don't you bring him along?' So we just packed him up in his bassinet and trotted off to dinner. I put him on two chairs and he slept through dinner."

In the year between her resignation from the board and her reappointment in 1979, Nichols ran the civil branch of the Los Angeles city attorney's office. There she picked up some administrative techniques that she hopes will serve in dealing with public employees and politicians alike.

High on her "must" list is the controversial motor vehicle inspection program. She calls it the "single most hopeful program we know about at this time for reducing hydrocarbon emissions. It's a tremendously important program. It's also tremendously important that we do it right."

That will be a tall order. Under the U.S. Clean Air Act of 1977, California should have adopted this summer a plan for periodic inspection of auto-exhaust emissions in the major population centers. The federal Environmental Protection Agency has warned that it may halt approval of major new industrial construction throughout the state until such a plan is adopted.

But more than 7,000 private operators of state-licensed inspection stations are fearful of losing their lucrative inspection and repair businesses. Many state legislators complain about one more federal bureaucracy intruding into the state's business. And millions of motorists are bound to object to paying for an annual, state-ordered inspection and tuneup.

Yet Nichols is convinced there is a reservoir of popular willingness to go along with an inspection program. "People believe that cars pollute. They recognize the fact that cars have to be maintained, and they will cooperate with an inspection program — but only if it's reasonably convenient, relatively inexpensive, doesn't take a lot of time, doesn't hassle them too much if their cars fail, and if they have confidence that the program is actually going to improve air pollution."

Now all she has to do is convince a skeptical Legislature that she can run just such a program.

Newsmakers

Another GOP opportunity

Governor Brown gave the Republican Party an opportunity to pick up a state Senate seat by nominating Senator **Jerome A. Smith** of Santa Clara County for the appellate court in San Francisco. Smith's district is considered anything but safe for the Democrats, who now hold a 23-16 advantage in the Senate . . . The Fair Political Practices Commission reported that Republican **Ken Maddy** and Democrat **John Thurman** spent a record $935,000 in their race for the Fresno-Modesto senate seat won by Maddy. Thurman spent $442,000, Maddy $543,000.

Former Attorney General **Evelle J. Younger** has filed a claim to increase his state pension from $19,000 to $43,000 a year. His highest pay as attorney general was $42,500 . . . Congressman **John Rousellot** conceded that he had run into financing problems in his effort to run for the United States Senate next year, raising the possibility that he will withdraw and that other conservative Republicans, Congressmen **Robert Dornan** and **Barry Goldwater Jr.** among them, will enter the contest . . . A bitter battle was anticipated in the GOP primary for the seat being vacated through the retirement of state Senator **Lou Cusanovich** of Woodland Hills. Among the contenders: former police chief **Ed Davis** of Los Angeles and Assemblyman **Bob Cline** . . .

The liberal California Tax Reform Association gave black-hat "loophole legislator" awards to two Democrats, Senator **Bob Wilson** and Assemblyman **Frank Vicencia,** and to two Republicans, Assemblymen **William Filante** and **Bob Naylor** . . . **Charles P. Valdes,** a CalTrans attorney, unseated CalTrans engineer **William Craib** as president of the California State Employees Association . . . State librarian **Ethel Crockett** announced that she will retire next year . . . Former Assemblyman **John Williamson** indicated he will retire in December as chief administrative officer of the Senate. He will be replaced by **Bruce Samuel,** aide to Senate president pro tempore James R. Mills.

Appointments by Governor Brown: **Carla M. Bard,** Oxnard mushroom grower, as chairwoman of the Water Resources Control Board; **James A. Walker,** executive director of the state Energy Commission, to the commission; **James G. Leathers,** Woodland farmer, to the Air Resources Board; **Richard Trugman,** motion picture producer and Brown fundraiser, to the Little Hoover Commission; **Henry Der** of San Francisco and **Fernando de Necochea** of Santa Barbara, to the State Bar board of governors.

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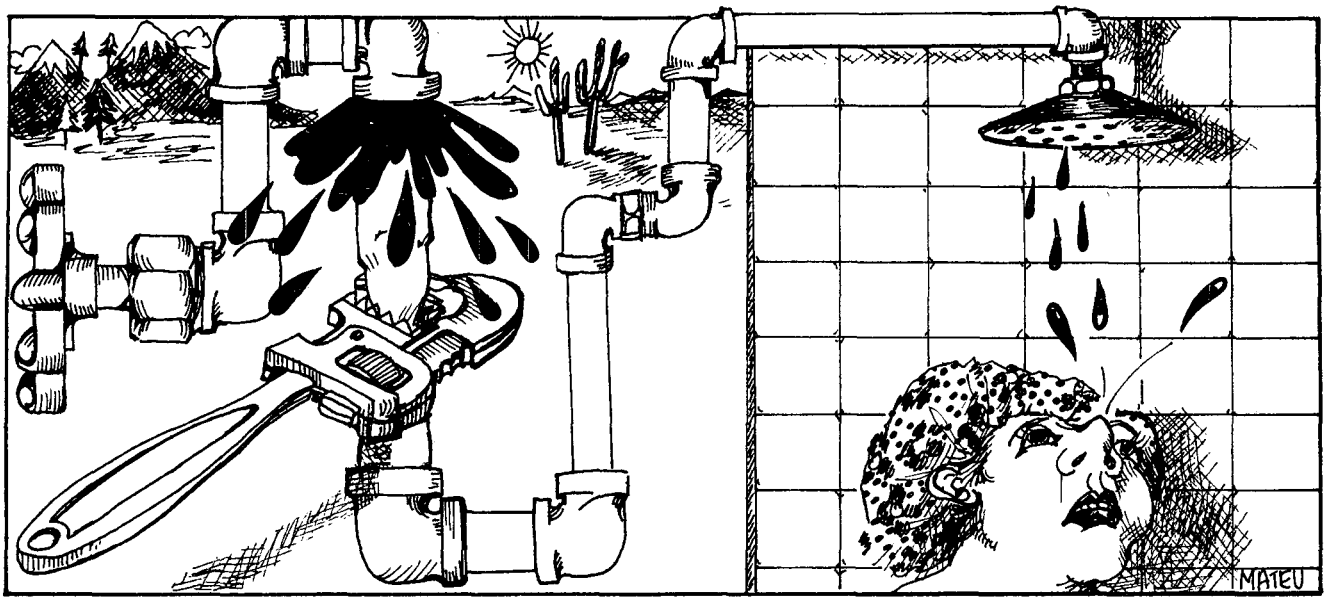

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'GENERAL MOTORS OF WATERDOM'

Double trouble for MWD: loss of water, internal attack

By Daniel J. Blackburn

Earle C. Blais, chairman of the board of directors of the Metropolitan Water District of Southern California, was riding in an automobile through a rainy Sacramento-San Joaquin Delta when a rear tire blew out.

The job of changing treads was assigned to fellow passenger Robert P. Will, the district's top lawyer, whose mild protestations went unheeded by chairman Blais. Recalling the incident, Will reportedly told an associate, "For God's sake, don't ever mention the Peripheral Canal around Earle when I'm nearby. He'll have me out there digging the damned thing."

The story illustrates a new political aggressiveness on the part of the leadership of MWD, the world's largest wholesaler of water, serving about 11 million people in Southern California. Today MWD finds itself in distressing circumstances. Its own water supply is threatened. At the same time, one of the district's own directors is publicly questioning its internal policies and has spurred a grand jury probe of the agency's practices.

Neither situation makes MWD officials happy, but their looming supply problems are what have been occupying Blais. A board member since 1961, Blais doesn't hesitate to cite the controversial Peripheral Canal as one of his primary objectives. Without the canal, according to MWD engineers, Blais' agency will be hard pressed to keep its contractual commitments to its many and varied customers.

The reason is simple: Beginning in 1985, MWD will gradually lose most of the 1.2 million acre-feet that it currently draws from the Colorado River. A 15-year-old Supreme Court decision says that the state of Arizona has a right to that water, and the Central Arizona Project is being built to utilize it.

To make up for that loss, MWD needs the 43-mile-long Peripheral Canal around the Sacramento River Delta — the key to completion of the state's massive water project. Even if a canal bill had been passed this year, construction would require at least a decade.

The district's inability to deliver water to its 27 member agencies in previously promised quantities could have far-reaching effects. Thirteen major cities and 14 large city or county water districts in Los Angeles, Orange, San Diego, Riverside, San Bernardino and Ventura counties depend on MWD for all or part of their water supplies. At present, the district imports 1.21 million acre-feet of water a year through its Colorado River Aqueduct. It also has contracts with the state of California for the eventual delivery of twice that amount from the State Water Project.

Big and getting bigger

MWD started big in 1928 and, in the past 51 years, has gotten much bigger. Its first engineers tapped the Colorado River at Lake Havasu, Arizona, and moved water 242 miles through canals, tunnels and pumping plants to its termination point, Lake Mathews in Riverside County. The agency now has an assessed valuation of more than $51 billion and employs 1,300 people.

Its board of directors — headed by Blais — consists of 52 representatives of the 27 member agencies; 32 directors are from Los Angeles County. The *New York Times* has called MWD "the General Motors of waterdom" and its board as the "second most powerful legislative body in the state of California." It is exempt from regulation by any state governmental body except the Legislature. It wields enormous political clout with the state's elected officials and employs full-

Daniel J. Blackburn, senior consultant to the Senate Rules Committee, once worked for the Metropolitan Water District and was a free-lance writer in Sacramento when this article was prepared.

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time lobbyists both in Washington and Sacramento. Its key management people are now emerging from its legal and public relations divisions, which marks a shift from the engineer-oriented leadership of past years.

Since becoming MWD's chairman last January, Blais, a Burbank attorney, has spent most of his time and energy on the political battle over the Peripheral Canal. "When he first became chairman, he made it very clear that his top priority was getting the canal built," a senior MWD official recalls. " 'I don't care how you get it, just get it,' he said, and that's exactly what needed to be said. Now maybe we can get the job done."

But "getting the job done" has not been easy, and it wasn't accomplished this year. The canal bill, carried by Senator Ruben Ayala, appears to be mired hopelessly in the Senate Finance Committee, two strong votes short of the seven needed for passage to the full Senate. The Brown Administration has pushed the bill (SB 200), but it has been stymied effectively by Delta water users who perceive it as too "liberal" with water supplies for Southern California. According to Steve Macola, consultant to Ayala's Agriculture and Water Committee, SB 200 probably won't be given serious consideration until after January.

Problems back home

Back home on Sunset Boulevard in Los Angeles, MWD officials have problems of a different kind. One of their own directors, Ellen Stern Harris, has initiated such a furor over MWD's internal policies that a formal probe by the 1979 Los Angeles County Grand Jury has been undertaken.

Appointed in January 1978 to represent Beverly Hills on the MWD board, Harris has accused the district of miscellaneous misdeeds, ranging from unconstitutional water pricing policies to falsified expense accounts. The charges reflect her belief that MWD's current budget of $191 million could be reduced substantially if the district eliminated what she calls "wasteful and extravagant spending practices."

MWD's budget is supported by water sales, a property tax levy of 10 cents per $100 of assessed valuation, and the sale of revenue bonds, such as the recent offering of a $147.5 million issue for waterworks refinancing. While the new tax rate rests at its lowest point in 40 years, a $5-per-acre-foot increase in wholesale water prices has hiked the cost of water within MWD's 5,000-square-mile area to an all-time high. (An acre-foot of water will cover an acre of land to a depth of one foot, or 325,900 gallons.) Treated water provided by the district to its member agencies now costs $100 per acre-foot. Water for groundwater replenishment and agriculture now costs $74 and $66 an acre-foot respectively.

The need for rate increases could be eliminated, according to board member Harris, by placing restrictions on the expense accounts of board members and staff and reducing the size of the district's 30-member public relations staff. (The latter group is supported by a $1.5 million annual budget appropriation, which also helps to pay for director-sponsored tours of district and state water facilities.)

In addition, Harris says that MWD's forecasts of future water shortages are overstated. The district could accommodate much of the Colorado River cutbacks if it paid more attention to water conservation and better management techniques, she charges.

MWD chief counsel Will predicts that the grand jury "won't find any wrongdoing. There's nothing to find." Will conducted an in-house inquiry into Harris' allegations prior to her request for grand jury attention.

A Sacramento lobbyist who works frequently with MWD says Harris' contentions "are very bothersome to district people. They think they are wearing white hats. But it's the (Peripheral) canal that's got them the most worried. That project is looking more and more shaky."

Significant Court Actions

Harder times for the high court

Eventually, who is going to decide whether members of the state Supreme Court have been violating a constitutional provision requiring that they dispose of all cases within 90 days or lose their pay? Will it be necessary to form another ad hoc Supreme Court similar to the one which ruled unanimously October 18th that the Commission on Judicial Performance could not conduct a public investigation of the high court?

The 90-day-or-no-pay issue was raised by the Law and Order Campaign Committee, the same organization that campaigned against Chief Justice Rose Bird last year. The committee won a preliminary ruling by Superior Judge Joseph Babich of Sacramento that the Supreme Court has been violating the constitutional provision. Babich ordered state Controller Ken Cory to stop paying the justices, and Cory said he would not make an effort to lift the order. He said, in effect, that the justices will have to defend themselves. He then sent a team of auditors to San Francisco to check court records, in keeping with Babich's temporary injunction.

The justices have contended that they do not violate the 90-day rule — even though much more time may elapse between submission of a case to the court and the issuance of a ruling. The court starts the calendar when it receives all arguments and briefs on a case — not when it first assumes jurisdiction over a case. If Cory agrees that the 90-day rule has been violated, the justices will have to go to court themselves to seek a resumption of paychecks.

Goodbye, Newman

Earlier, an ad hoc Supreme Court voted 4-2 to oust Associate Justice Frank Newman from the panel deciding whether the Commission on Judicial Performance investigation can be held in public. Newman, the only member of the high court who refused to disqualify himself, was replaced by Appellate Justice Hugh A. Evans of Sacramento.

Case of the green thumb

Overshadowing either of these decisions was the arrest of Appellate Justice Paul Halvonik of Oakland on charges of possessing and growing marijuana. Halvonik, former aide to Governor Brown and former state public defender, pleaded innocent, as did his wife, Deborah. Police found 323 marijuana plants at the Halvonik home, plus small quantities of smoking marijuana and cocaine. If convicted of a felony or other crime of moral turpitude, Halvonik would automatically lose his judgeship.

Stay for abortions

The state Supreme Court has agreed to hear challenges to provisions of the state budget cutting off most Medi-Cal abortions. Meanwhile, abortions will remain available to those on Medi-Cal. Voting to hear the case were Chief Justice Bird and Justices Newman, Stanley Mosk and Mathew Tobriner.

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The proliferation of recalls in our single-issue society

By Tony Quinn

Recalling an elected official has been compared to shooting a piano player in mid-song. The process is as complex and confusing as anything in the state Elections Code. It's also increasingly popular. The Assembly Committee on Elections and Reapportionment is following some 45 active recalls at the present time.

Until recently, recalls were rare and almost always confined to small communities and jurisdictions. A 1973 study showed only four or five city recalls a year and about a half-dozen among school boards, almost all in small districts.

But the post-proposition 13 climate has changed all that. Recalls are now being used to express public dissatisfaction with government, particularly at the local level. Some people fear its increased use may fundamentally change the governmental structure in California. Several bills have been introduced to streamline the process and to make it more fair. Hearings on the recall bills are scheduled for this fall by the Assembly elections committee.

Turmoil in San Juan

One good example of the pitfalls in recall came last year with the defeat of four of the five members of the San Juan school board in Sacramento County. San Juan is predominantly a white, middle-class district in the Sacramento suburbs, one of the largest districts in the state. After Proposition 13 passed, the four board members voted, allegedly in a "secret" executive session, to spend up to $1,000 to challenge some aspects of Proposition 13 as it applied to schools. They said the law was unclear.

Opponents of the board majority used this vote to launch a recall drive, contending the board was trying to frustrate the public's will by undercutting Proposition 13. A groundswell of public unhappiness with the educational system and with government in general helped the proponents amass 15,000 signatures on the four recall petitions in only eight days. The four board members were recalled in the general election last fall.

Then the real trouble began. All four incumbents got more votes to remain in office than any of their successors, which meant the winners formed a board majority with potentially less popular support than the recalled members. A new majority, made up of three of the four successors, shifted educational priorities in the district, which eventually led to the firing of the school superintendent. That caused an outcry in the community, and another recall is underway to remove the newly elected majority this fall.

Whatever was gained by the first recall, it is clear that the community is more divided now than it was before. The San Juan experience seems to confirm the major finding of a recent academic study of the fallout from recalls: Rather than solving problems in a community, recall elections tend to multiply tensions.

Getting attention

For all its problems, though, voters seem convinced that recall is a useful tool to get the politicians' attention when nothing else seems to work. That is certainly the message of the best-known school recall in California in recent times, that of Howard Miller from the Los Angeles city school district board earlier this year.

Miller's recall election was actually a referendum on school busing. He was accused of having acquiesced in the bitterly opposed Los Angeles busing plan, and the issue in his recall was approval or disapproval of the current board's response to court-mandated busing. Put in that context, Miller really never had a chance; the people voted overwhelmingly against busing by voting to oust him, and his successor, now board member Roberta Weintraub, is associated with the militant anti-busing faction on the board.

There is some talk that if Miller's recall and the expected tidal wave of anti-busing votes in the November special election on busing do not end the practice, an attempt may be made to recall the judge who ordered the busing plan.

Judicial recalls are still rare, but as public dissatisfaction with government mounts, judges could find themselves more frequent targets for recalls. The battle over confirmation of Chief Justice Bird last year moved this once-perfunctory process into the partisan arena. It may be just a matter of time before even Supreme Court justices find themselves on the receiving end of recall petitions.

The Miller recall suddenly awakened many public officials

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to the potential for widespread use of this tool of popular democracy. Until the Los Angeles vote, it had been generally believed that recalls could not succeed in large jurisdictions because of the difficulty in getting petition signatures and in organizing a campaign. But recalls are clearly on the upswing, and no longer just the consequence of emotional issues in small communities. A survey shows that about 17 percent of counties report at least one county recall in the past five years. Some counties have had two supervisors recalled in the same election. In Simi Valley, two city council members were recalled this year for raising the sewerage fee to cover Proposition 13 revenue losses.

'Throw them out'

Why the sudden popularity of this complex procedure? Ginger Gherardi, one of the recalled Simi Valley officials, blames it on the anti-government climate: "People who sat in gas lines for four hours are so damned mad at government they are ready to throw any incumbent out. I don't take it personally."

Bob Walters, one of the four recalled San Juan members, finds more complex reasons: "We are becoming a single-issue-oriented society. Voters will overlook an incumbent's overall record and judge him on just one issue."

Walters feels people express their disenchantment at federal and state government by recalling local officials. "People can pinpoint their local officials," he says. "They can take out their frustrations on them. The citizenry lacks knowledge as to what level of government affects them, so they blame local government for government's general inability to cope."

Election figures seem to bear up Walters' observation. More than 90 percent of congressmen, senators and assemblymen running for re-election win, but voters are very apt to defeat city and county officials. Recall simply means replacing them in mid-stream.

But there are other factors contributing to the recall trend:

- ***Local officials*** sometimes add to their own troubles. Recalls are often the result of a failure in communications, the inability of local officials to explain adequately why they did certain things.
- ***Press coverage*** is also a factor in the success of recalls. A recall election can be counted upon to be bitter, with the issues hotly contested. That makes for good copy; it is the man-bites-dog of the electoral process. A regular election often attracts little or no press attention, but a recall will receive wide coverage.
- ***Recall issues*** tend to be complex, and the fact that they are spotlighted in the press usually benefits proponents, who cannot win without convincing the public of the seriousness of their charges.

There is another reason for heightened public interest in recalls: The election is actually a vote of confidence on an official's performance; not unlike the confidence vote in a parliamentary system in which a government can be thrown out and a new election called at any time. The entire basis of government in America involves regular elections and fixed terms of office, but recall elections shortcircuit that process. They permit the public to cast a mid-term "confidence" vote, and in so doing they increase direct democracy. They also move in the direction of a parliamentary system, with its sudden and irregular election schedule.

If recalls continue to mushroom, Walters believes that voters may have to decide at some point whether to continue the traditional, fixed-term system or establish a process in which the people can intervene with no-confidence votes and turn out governments at will.

Although most people feel that recalls are stacked against incumbents, officials do beat the recall about half the time. Yet the number of successful recalls is on the rise. "Success breeds enthusiasm for more recalls," Walters notes.

Recall: costly and confusing

Three Progressive-era reforms were placed in the state constitution in 1911: initiative, a frequently used method for voters to pass laws directly; referendum, a less-common means for repealing laws directly; and recall, which involves removing a public official in mid-term. Of the three, recall is the most complicated.

Recall elections tend to be far more bitter and divisive than regular elections. Part of the reason for the divisiveness is that it is hard to bring about a recall. The proponents must circulate petitions among the voters and obtain a certain number of signatures before the recall election can be authorized.

The number varies, according to whether the recall is for city council, a county office, a school or special district, or a state office. Local-office recalls are the most common, although the constitution also permits recall of state officers.

If the proponents round up the required signatures, an election is called and a ballot prepared reading: "Shall (name of official) be removed from the office of (title)?" The voters may vote "yes" or "no," and a majority of "yes" votes automatically removes the public official from office.

Now there's a problem: an office but no office-holder. Most jurisdictions solve this by allowing the voters on the same ballot to select a successor, by plurality vote, from a list of persons who have qualified to run if the recall succeeds. If the voters have turned down the recall, of course there is no election.

Inequities and confusion often result. For example, an official may have the support of 49 percent of those voting and still lose. If a large number of candidates seeks the office, a successor may be chosen with just 15 or 20 percent of the vote. So the person who got tossed out of office will have received more votes than the person who succeeded him.

Some people would resolve this by allowing the recalled official to run to succeed himself, but that would mean that an official whom a majority of voters want out of office could be kept in by a minority. To avoid this, California law has a provision that no recalled official may be a candidate to succeed himself.

Another solution would be to have a run-off election between the two top vote-getters if the recall succeeds. But this would mean an expensive second election.

Some years ago, the Legislature provided a modification for city elections: If a city councilman is recalled, voters do not simultaneously choose a successor. Either the city council appoints a successor or the voters choose one at a later election. The purpose was to give the anti-recall forces more say in the selection of a successor, but this does not solve the fundamental problem. Even under the city system, a person may be recalled by 51 percent of the voters but the successor chosen by fewer voters.

The confusion, inequity and high costs surrounding recall elections leads to the question of whether they should be abolished altogether and a different system instituted. Some 26 states allow recall of local officials; California is one of only 12 states with recall for state officials. Many states and the federal government opt for impeachment as the only means of removing errant officials. *T.Q.*

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Brown's lowest veto total; passage of four major tax-cut measures

Governor Brown this year became the first California chief executive in modern history to have more than one of his vetoes overridden by the Legislature. This might lead to the conclusion that Brown wielded the executioner's pen more frequently than usual during the 1979 legislative session. In fact, just the opposite was the case.

Brown vetoed only 60 bills — less than 5 percent of the 1,267 measures sent to his desk. This compares with 84 vetoes last year and more than 100 in each of his first three years as governor. One reason why Brown didn't veto more bills this year: Just before the final push for the passage of bills, Brown launched a campaign to mend fences with lawmakers prior to his departure on the presidential campaign trail. Another explanation is that the legislative output of controversial measures was light this year.

On 65 occasions — roughly 5 percent of the time — Brown elected to allow bills to become law without his signature, historically a high number. The most controversial bill was the one that stripped the executive officer of the Franchise Tax Board of his extraordinary job protection. Most of the other bills were relatively innocuous.

In the final flurry of activity, the most important measures to the ordinary citizen provided four different types of tax relief:

- The Legislature disposed of a massive surplus in the disability-insurance fund by giving income-tax credits of up to $91 per person in next year's returns.
- After years of pecking away at the business inventory tax, the levy was abolished in its entirety.
- In response to post-Proposition 13 complaints by renters, lawmakers increased income-tax credits to renters totaling about $228 million next year.
- After establishing a so-called indexing system for income-tax computations last year, lawmakers finished the job this session. Last year's bill allowed the state to keep an annual inflationary factor of 3 percent. When the new plan is implemented, the rates will be adjusted every year to account for the increase in the cost of living.

VETOED

Here is a sample of the 60 bills vetoed by Governor Brown this year and some of the reasons he gave for refusing to sign them into law:

Farm labor. *SB 504–Nimmo.* Restricts the right of a farm labor union to discipline or expel its members.

This bill would eliminate the right to bargain for a union security clause . . . In my judgment, no credible evidence has yet been presented that would justify this amendment to the state's farm labor law. Although more than 3,000 unfair labor charges have been filed since the inception of the Agricultural Labor Relations Act, only two cases have related to alleged violations of a union security clause. With respect to both cases, it appears from the record that the rights of individual workers are being vigorously protected.

Retroactive pay. *SB 91–Alquist.* Provides more than $200 million to provide a pay raise for state employees equivalent to 7 percent for the last nine months of the 1978-79 fiscal year. (The Governor's veto was overridden.)

Put simply, Senate Bill 91 attempts to circumvent with a retroactive pay raise Article IV, Section 17 of the California Constitution, which states: "The Legislature has no power to grant . . . extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered . . ." The fact that some employees threatened an unlawful strike if they do not get their way is no reason to capitulate and ignore our constitution . . .

Foster care. *AB 385–Alatorre.* Requires foster parents to complete courses before children can be placed in their homes.

This bill . . . may discourage the development of foster homes and foster families.

Real estate. *AB 1183–Lancaster.* Eliminates current provision allowing individuals meeting educational qualifications to become real-estate brokers without working as salespersons for two years.

I can find no reason to support a bill that limits entry into the real estate profession.

Sagebrush rebellion. *AB 1407–Hayes.* Requires state agencies to conduct studies and take other steps designed to bring California into the "sagebrush rebellion" against federal ownership of land.

Before authorizing state funds for the study authorized in this bill, I believe the state should review its own land management practices . . . Any immediate questions of title of public land can be handled by the attorney general within existing state law.

Funeral directors. *SB 416–Greene.* Eliminates conflict-of-interest problems for funeral directors serving on the board regulating the funeral business.

No other consumer board has received this type of legislative assistance. Yet they all appear to be managing their affairs adequately within the provisions of existing law.

Crossing guards. *SB 182–Dills.* Prohibits schools from employing crossing guards.

It would be inappropriate to repeal the authority of school districts to share in the cost of providing school crossing guards at a time when the Legislature is considering comprehensive proposals to restructure the financing of local government.

Insurance. *AB 580–Papan.* Prohibits bank holding companies from selling certain types of insurance. (Veto overridden by Legislature.)

This type of restriction on competition is not only arbitrary, but also tends to keep insurance prices higher than necessary.

Utility taxes. *SB 985–Rodda.* Reimburses publicly owned utilities for costs mandated on them by the state, with the funds provided from the utility-bill surtax.

I believe that the costs of compliance with energy commission regulations should be

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paid by utility ratepayers rather than the method proposed in this bill.

Violent offenders. *AB 29–Knox.* Appropriates $3 million for treatment of mentally disordered violent offenders.

While the idea is lofty, all my experience tells me it won't work.

Brokers. *AB 268–Young.* Increases fees mortgage brokers may charge.

There is not sufficient evidence that the increased costs imposed upon mortgage borrowers by this bill are justified.

School violence. *SB 73–Roberti.* Establishes program to help local schools deal with crime and violence.

I believe that the very serious problem of school-related crime should be handled at the local, not the state level.

Employee deductions. *AB 1412–Frazee.* Allows some employers to remit payroll taxes to the state on a quarterly instead of a monthly basis.

This change could result in an annual loss of interest to the state of $636,000. I am not convinced that the potential savings to employers warrants such a substantial loss of revenue to the state.

Guns. *AB 1076–Ellis.* Relaxes certain restrictions on the sale of handguns.

This bill removes important restraints on the sale of handguns to strangers by unlicensed dealers. Given the significant role of handguns in violent crime, I can see no justification for weakening existing law relating to the sale of such weapons.

Drug programs. *SB 686–Presley.* Requires courts to place specified minors in drug and alcohol rehabilitation programs.

The decision . . . is best left to the sound discretion of juvenile court judges.

Hunting licenses. *AB 91–Imbrecht.* Provides free hunting licenses for senior citizens.

While I have approved free park passes and fishing licenses for the elderly, I do not believe that hunting licenses should be provided in the same manner.

SIGNED

What follows is a selection of bills either signed into law by Governor Brown or allowed to become law without his signature. Most measures will become effective on January 1st, 1980. The exceptions are urgency bills, appropriations and legislation carrying specific effective dates.

AGRICULTURE

Pesticides. *AB 1118–Gage.* Changes the way in which crop dusters are regulated and increases control over products with excessive pesticide residue. **Farm loans.** *AB 185–Lehmar.* Increases the maximum Cal-Vet farm loan from $60,000 to $180,000. **Aquaculture.** *SB 52–Keene.* Enacts Aquaculture Development Act and gives the Department of Fish and Game primary responsibility for aquaculture development. **Organic food.** *AB 443–Gage.* Enacts the Organic Food Act of 1979. **Kiwifruit.** *SB 639–Rains.* Creates California Kiwifruit Commission.

CRIME

Rape. *AB 546–Mori.* Creates crime of spousal rape. **Prisons.** *SB 196–Presley.* Appropriates $12 million for the design of new prisons. **Domestic violence.** *SB 355–Presley.* Establishes diversion program for certain defendants in cases involving domestic violence. **Angel dust.** *SB 469–Presley.* Requires prison terms for those making or selling PCP. **Bail.** *AB 2–Berman.* Establishes a new bail system for misdemeanors, allowing those arrested to deposit 10 percent with the court and receive most of it back at the conclusion of the case. **Sex crimes.** *SB 13–Richardson.* Stiffens penalties for violent sex crimes and creates new crime of forcible lewd and lascivious conduct. **Arson.** *SB 116–Roberti.* Stiffens penalties against arson. **Violent crimes.** *SB 406–Wilson.* Provides mandatory prison sentences for those convicted of certain violent crimes. **Vandalism.** *SB 71–Roberti.* Increases fines for vandalism and generally stiffens law on vandalism. **Crime commission.** *AB 23–Vasconcellos.* Creates California Commission on Crime Control and Violence Prevention. **Assassinations.** *AB 84–Agnos.* Provides a $150,000 death benefit to family of an elected public official who is assassinated. **New name.** *SB 281–Presley.* Renames the Community Release Board as the Board of Prison Terms. **Credit cards.** *AB 19–Hughes.* Permits use of credit cards to pay for non-felony fines, bail deposits and vehicle storage charges. **Domestic violence.** *SB 9–Smith.* Enacts a Domestic Violence Prevention Act.

EDUCATION

Busing. *AB 1595–Bergeson.* Extends the authority of school districts to charge parents a fee for transporting children to school. **Credentials.** *AB 388–Berman.* Adds mental disability to the grounds for suspension or denial of a teaching credential. **Free admission.** *SB 24–Alquist.* Enables persons 60 or older to enroll in the state university system without paying regular fees.

EMPLOYMENT

Jobs. *SB 132 and SB 93–Greene.* Establish programs designed to create 25,000 jobs. **Strikes.** *AB 757–Alatorre.* Grants disability insurance benefits during labor-management disputes. **Unemployment.** *AB 759–Alatorre.* Increases unemployment insurance benefits. **Benefits.** *AB 758–Alatorre and AB 780–Egeland.* Increase disability-insurance benefits. **Leisure.** *SB 371–Mills.* Provides grants to employers participating in an experimental leisure-sharing program designed to increase employment.

ENERGY AND RESOURCES

Conservation. *AB 900–Goggin.* Allocates $20 million to help agencies finance energy conservation projects. **Biomass.** *SB 771–Alquist.* Appropriates $10.5 million for the development of biomass conversion projects. **Beverages.** *AB 406–Kapiloff.* Prohibits sale of six-packs held together with non-biodegradable plastic devices.

Coastal. *AB 462–Mello.* Makes numerous changes in boundaries of coastal zone. **Elk.** *AB 475–Fenton.* Protects wild elk. **Mandates.** *AB 1287–Levine.* Allows the Public Utilities Commission to mandate conservation programs. **Methanol.** *AB 1401–Boatwright.* Legalizes the use of methanol in California. **Mountains.** *AB 1512–Berman.* Enacts the Santa Monica Mountain Conservancy Act. **Plates.** *SB 256–Robbins.* Gives the Resources Agency control over the environmental license-plate program. **Protection.** *SB 201–Wilson.* Appropriates $10 million for protection, development and restoration of the state's natural resources. **Water boards.** *SB 890–Presley.* Requires Senate confirmation of gubernatorial appointees to regional water-quality boards. **Solar credit.** *SB 995–Alquist.* Extends the 55 percent income-tax credit for solar power installations to those who lease equipment from a municipal utility. **Inventory.** *AB 524–Calvo.* Requires the Air Resources Board to prepare an inventory of potential cogeneration and resource-recovery projects. **Urban parks.** *SB 174–Roberti.* Appropriates $20 million for urban parks. **Sohio.** *AB 644–Calvo.* Speeds resolution of challenges to permits for the proposed Sohio pipeline project, since abandoned. **Gasohol.** *SB 318–Alquist.* Requires the state Department of General Services

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to prepare a plan for the use of gasohol in at least 25 percent of the department's vehicles. **Nuclear power.** *SB 1183–Garamendi.* Requires that the state prepare a specific map showing danger areas in the event of a serious nuclear powerplant accident.

FINANCE AND TAXATION

Inventory tax. *AB 66–Lockyer.* Abolishes business inventory tax and increases bank and corporation tax. **Indexing.** *AB 276–Bergeson.* Completes cost-of-living indexing of the state income tax. **Commission.** *SB 165–Mills.* Creates a commission on state finance to forecast state revenues, expenditures and surpluses. **Disability tax.** *AB 298–McAlister.* Provides income-tax credit of up to $91 a person to eliminate disability-insurance-fund surplus. **Renters.** *AB 1151–Roos.* Provides renters with an additional $228 million in income-tax credits. **Works of art.** *SB 669–Sieroty.* Provides special state income-tax deduction for artists contributing their works to charitable organizations. **Emergency phone.** *SB 1180–Johnson.* Extends the tax for the 911 emergency telephone system. **Proposition 13 bailout.** *AB 8–Greene.* Provides $4.85 billion in aid to local government to offset Proposition 13 property-tax losses; establishes long-term bailout formula with a deflator clause in the event of an economic downturn. **Budget.** *SB 190–Rodda.* Appropriates $16.5 billion to operate the state government this fiscal year. (That total includes employee-raise funds vetoed by the governor and restored by the Legislature through override.) **Tax vote.** *AB 618–Chappie.* Allows local government to levy taxes to fund police and fire services upon approval of two-thirds of the voters. **Special districts.** *SB 31–Nejedly.* Provides $30 million in emergency aid to special districts. (Original sum of $35.7 million reduced by the governor.) **Litter.** *SB 373–Nejedly.* Exempts retailers and small businesses from payment of litter taxes. **Capitol reconstruction.** *AB 198–Papan.* Appropriates $19 million in additional funds for restoration of the state Capitol.

HEALTH AND WELFARE

Doctor's fees. *AB 210–Goggin.* Allows those in the healing arts to advertise their fees and services. **Community programs.** *AB 7–Egeland.* Establishes priorities for services under community mental-health programs. **Handicapped.** *AB 413–Gage.* Prohibits discrimination against the physically handicapped in the sale of auto insurance. **Health.** *AB 540–Bane.* Allows local agencies to impose fees against certain business property for public-health services. **Mumps.** *AB 805–Mangers.* Adds mumps and rubella to diseases against which children must be immunized before they can be admitted to school. **Nurses.** *AB 1112–Moorhead.* Authorizes registered nurses to own up to 49 percent of the shares of a medical corporation. **Welfare.** *AB 381–Boatwright.* Establishes new rules for welfare fraud and abuse. **Mentally ill.** *AB 1438–Bates.* Requires that mentally ill individuals be treated outside of hospitals when possible. **Grandparents.** *AB 1247–Hayden.* Establishes foster grandparent program. **Bonds.** *AB 1558–Knox.* Creates California Health Facilities Authority to provide bond funds for hospitals. **Marijuana.** *SB 184–Presley.* Establishes a pilot program for research into the medical uses of marijuana. **Nonpayment.** *AB 191–Torres.* Prohibits health facilities from detaining patients for nonpayment of bills.

JUDICIAL SYSTEM

Judges. *SB 53–Dills.* Adds 53 new judges to 21 courts and puts 5 percent cap on pay hikes for judges. **Alimony.** *AB 437–McAlister.* Revises standards for award of alimony, giving spouse credit for domestic duties. **Bar.** *SB 1089–Wilson.* Lowers State Bar dues for one year, and gives Legislature two appointments to Bar board, starting in 1983. **Seniors.** *AB 146–Rosenthal.* Gives persons 70 or over preference in the hearing of civil court actions. **Grand jury.** *SB 1131–Nimmo.* Allows four members of a grand jury to serve a second year. **Joint custody.** *SB 477–Smith.* Authorizes courts to award joint custody of children in divorce proceedings. **Judges.** *AB 197–McCarthy.* Requires that the names of potential trial judges be submitted to the State Bar for evaluation prior to appointment.

REAL ESTATE

Zoning. *SB 606–Foran.* Requires local officials to consider the impact of their zoning ordinances on the housing needs of their communities. **Housing.** *AB 333–Hughes and SB 229–Roberti.* Appropriates $100 million to increase the supply of housing. **Home loan.** *AB 45–Fenton.* Increases the maximum Cal-Vet home loan from $43,000 to $55,000. **Hotels.** *AB 1119–Gage.* Requires the development of a residential hotel rehabilitation code. **Mobilehomes.** *SB 1004–Presley.* Subjects mobilehomes to property taxes instead of vehicle license fees. **Commissions.** *AB 802–Agnos.* Requires that real-estate forms contain a notice that real-estate commissions are not fixed by law and are negotiable. **Foreclosure.** *AB 510–Fenton.* Imposes additional requirements on persons seeking to foreclose and sell real property containing a single-family, owner-occupied dwelling.

MISCELLANEOUS

Huff. *AB 939–Lehman.* Would eliminate special protection enjoyed by the executive officer of the Franchise Tax Board (Martin Huff). **Transit.** *SB 620–Mills.* Adopts Brown Administration long-term financing program to promote mass transit. **Accidents.** *AB 710–Gage.* Raises the threshold for the reporting of motor-vehicle accidents to the Department of Motor Vehicles to $500. **Cable TV.** *AB 699–Young.* Partially deregulates the cable television industry. **Special election.** *SB 217–Robbins.* Calls special election for November 6th on four ballot propositions. **Licenses and sex.** *AB 1072–Rosenthal.* Allows the Department of Consumer Affairs to suspend licenses of individuals committing acts of sexual abuse with patients, clients or customers. **Mobile homes.** *SB 333–Robbins.* Extends maximum term of mobilehome loans to 30 years. **Advertising.** *SB 301–Alquist.* Exempts telephone-book yellow-page advertising from regulation by the state Public Utilities Commission. **Legislative pay.** *SB 364–Senate Rules Committee.* Raises pay for legislators to $28,111, effective December 1981. **Brown Act.** *SB 110–Johnson.* Allows local agency governing boards to hold special emergency meetings without meeting the regular notice requirements of the Brown Act on government secrecy. **Japanese relocation.** *AB 621–Mori.* Requires that February 19th be proclaimed as "A Day of Remembrance: Japanese-American Evacuation." **Regulations.** *AB 1111–McCarthy.* Establishes an office of administrative law which may review and veto new state regulations. **Absence from state.** *AB 487–Papan.* Allows high state officials to leave the state for more than 60 days.

ROLL CALL

Senate

ENVIRONMENT

Nichols — Vote on confirmation of Mary D. Nichols as chairwoman of the Air Resources Board. Confirmation granted, 21-11.

AB 406 (Kapiloff) — Prohibits sale of beverages in six-packs held together with nonbiodegradable plastic rings. Passed, 23-7.

AB 1512 (Berman) — Creates the Santa Monica Mountains Conservancy to preserve open space. Passed, 28-7.

JUSTICE

SB 53 (Dills) — Creates 53 new judgeships and limits cost-of-living pay increases for judges. Passed, 27-11.

SB 196 (Presley) — Appropriates $11.4 million for site acquisition and planning for new prison facilities. Passed, 30-9.

AB 2 (Berman) — Revises the misdemeanor bail system to allow for a refundable 10-percent deposit. Passed, 22-14.

AB 23 (Vasconcellos) — Creates commission to recommend measures to prevent crime. Passed, 26-12.

TAXATION

AB 939 (Lehman) — Eliminates extraordinary job-protection rights for the executive officer of the Franchise Tax Board. Passed, 22-15.

AB 1151 (Roos) — Increases income-tax credits for renters. Passed, 29-8.

MISCELLANEOUS

SB 401 (Robbins) — Allows companies selling credit insurance to allocate more premium income for sales commissions and less for policy coverage. Passed, 25-10.

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Senate (24D,16R)	Nichols AB 406 AB 1512 SB 53	SB 196 AB 2 AB 23 AB 939	AB 1151 SB 401 SB 1244 AB 1348		Nichols AB 406 AB 1512 SB 53	SB 196 AB 2 AB 23 AB 939	AB 1151 SB 401 SB 1244 AB 1348
Alquist (D)	*YYY	YN*Y	YYY*	Montoya (D)	*YYY	YYYY	Y*YY
Ayala (D)	YYYY	YYYN	YYYY	Nejedly (R)	YYYN	YYNN	**Y*
Beverly (R)	YYYY	YNYY	YYYY	Nielsen (R)	NYNY	YYNY	YYYY
Briggs (R)	NNNN	YNNY	YYYY	Nimmo (R)	*YNY	YNY*	*YY*
Campbell (R)	NN*N	NNYY	N*YY	Petris (D)	YYYY	NYYN	YNNN
Carpenter (D)	*YYY	YYYY	YNYY	Presley (D)	YYYN	YNYN	YYYY
Craven(R)	YYYY	YYNY	YYYY	Rains (D)	YYYY	NYYN	YYNN
Cusanovich (R)	N*NY	NNNY	NYYN	Richardson (R)	NNNN	NNN*	*YYY
Dills (D)	NNYY	YYYY	YYYN	Robbins (D)	Y*YY	YNYY	YYYN
Foran (D)	YYYY	YYYY	NYNY	Roberti (D)	YYYN	Y*YN	YYNY
Garamendi (D)	YYYY	Y*YN	YNYY	Rodda (D)	YYYY	YYNN	YNY*
Garcia, A. (D)	YYY*	YYYY	YNYY	Russell (R)	NNYN	NNNN	NYYY
Garcia, M. (R)	*Y*N	NNYY	YYNN	Schmitz (R)	NNNN	NNNY	NYY*
Greene (D)	Y*Y*	YYYY	YNNN	Sieroty (D)	YYYY	YYYN	YNNN
Holmdahl (D)	N**Y	Y*NN	YYYN	Smith (D)	YYYY	YYYN	YYNY
Johnson (R)	*YYN	YNYY	NYYY	Speraw (R)	N*YN	YNNY	NYYY
Keene (D)	YYYY	YYYN	Y*NN	Stiern (D)	Y*NY	NYNN	Y*NN
Maddy (R)	*NYY	YYYY	NYYY	Vuich (D)	***Y	YYYN	YYY*
Marks (R)	Y*YY	YYYY	YNN*	Watson (D)	YYYY	*YY*	YNNN
Mills (D)	Y*YY	Y**Y	YNNY	Wilson (D)	N**Y	YYYY	YYYY

VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through the end of session. Votes selected involve issues of major importance and issues on which there was a major division of opinion, or both.

Y - Yes **N - No**

*** — Absent or not voting**

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

Assembly: 41 votes required for passage of bills needing a simple majority. (⅔ = 54 votes)

Senate: 21 votes required for passage of bills needing a simple majority. (⅔ = 27 votes)

SB 1244 (Robbins) — Requires plaintiffs in school-integration cases to prove the existence of segregation. Passed, 27 - 13.

AB 1348 (Egeland) — Restricts Medi-Cal abortions (amended in Senate over author's objections). Passed, 21 - 12.

Assembly

ENVIRONMENT

AB 406 (Kapiloff) — Prohibits sale of beverages in six-packs held together with non-biodegradable plastic rings. Passed, 51 - 19.

SB 722 (Holmdahl) — Requires oil companies to provide the Energy Commission with information about petroleum supplies and pricing. Urgency clause defeated, 41 - 33 (54 votes required).

JUSTICE

AB 2 (Berman) — Revises misdemeanor bail system. Passed, 42 - 33.

AB 546 (Mori) — Creates crime of spousal rape. Passed, 32 - 8.

SB 13 (Richardson) — Increases penalties for commission of sexual crimes. Passed, 66 - 10.

MISCELLANEOUS

AB 1348 (Egeland) — Restricts Medi-Cal abortions. Assembly refused to accept Senate amendments, 40 - 36 (41 votes required).

AB 1798 (Mello) — Allows cities to levy property taxes to fund pension systems. Passed 56 - 20

AB 1235 (Alatorre) — Prohibits employers from recruiting out-of-state professional strikebreakers. Pased, 41 - 36.

SB 121 (Greene) — Appropriates $1 million to fund Reverend Jesse Jackson's Push-for-Excellence program for low achievers in at least five school districts. Passed, 54 - 23.

SB 401 (Robbins) — Allows certain insurance companies to allocate more premium income for sales commissions and less for policy coverage. Passed, 48 - 28.

Assembly (50D, 30R)	AB 406 SB 722 AB 2 AB 546 SB 13	AB 1348 AB 1798 AB 1235 SB 121 SB 401		AB 406 SB 722 AB 2 AB 546 SB 13	AB 1348 AB 1798 AB 1235 SB 121 SB 401
Agnos (D)	YYYYY	NYYYN	Kelley (R)	NNNYY	YNNNY
Alatorre (D)	YYNYY	NYYYN	Knox (D)	YNYYN	NYYYY
Bane (D)	YYYYY	*YYNY	Lancaster (R)	NNN*Y	YNNNY
Bannai (R)	NNNYY	NNNYY	Lehman (D)	YYNYY	NYNYY
Bates (D)	YYYYY	N*YYN	Leonard (R)	NNNYY	YYNYY
Bergeson (R)	YYNYY	YNNNN	Levine (D)	YYY**	NYYNN
Berman (D)	YYYYN	NYYYN	Lockyer (D)	YYYYY	NYYY*
Boatwright (D)	Y*NYY	*YYYY	Mangers (D)	*NNYY	NYNYN
Bosco (D)	*YYYY	NYYYN	McAlister (D)	NYNNY	YNYYN
Brown, D. (R)	NNNYY	YNNNY	McCarthy (D)	*YYYY	*YYYN
Brown, W. (D)	Y*Y*N	N*YY*	McVittie (D)	Y*YYY	YYNYY
Calvo (D)	YYYYY	NYYYN	Mello (D)	Y**YY	NYNY*
Chacon (D)	YYYYY	YYYYN	Moore (D)	YYYY*	NYYYY
Chappie (R)	*N*YY	YNNNY	Moorhead (R)	NNNYY	NNNYN
Cline (R)	YNNYY	YNNNY	Mori (D)	YYYY*	YYNY*
Costa (D)	YYYYY	NYNYY	Mountjoy (R)	NNNNY	YNNNY
Deddeh (D)	YYNYY	YYYYY	Naylor (R)	YYNYY	NNNNY
Duffy (R)	*NNNY	YNNNY	Nestande (R)	*Y*YY	YYY*Y
Egeland (D)	YYYYY	NYYYN	Nolan (R)	YNNYY	YYNYY
Elder (D)	YNY*Y	YNYYY	Papan (D)	NNYYY	*YYYY
Ellis (R)	YNNYY	YNNNY	Perino (D)	NNNYY	YYNYY
Felando (R)	NNN*Y	YN*YY	Priolo (R)	*N*Y*	YYN*Y
Fenton (D)	YYYYY	YYYYY	Robinson (D)	NYYYY	NYYYY
Filante (R)	**N*Y	YYN*Y	Rogers (R)	NNN*Y	Y*NNN
Frazee (R)	YNNNY	YYNNY	Roos (D)	YY*YY	NYYYY
Gage (D)	YYYYN	NYYYN	Rosenthal (D)	*YYYN	NYYYN
Goggin (D)	YYYYY	YYYYY	Ryan (R)	YNYYY	NYNNN
Green (D)	Y*YYY	NYYYY	Statham (R)	NNNYY	NNNNY
Hallett (R)	NNN*Y	NNNNY	Stirling (R)	YNNNY	YYNNY
Hannigan (D)	YYYYY	NYYYN	Tanner (D)	YNYYN	YYYYY
Harris (D)	YYYYN	NYYYN	Thurman (D)	YNYYY	YYNYY
Hart (D)	YYYYN	N*YYN	Torres (D)	YYYYY	NYYYN
Hayden (R)	YYYYY	YY*NY	Tucker (D)	YYYYY	YYYYY
Hayes (R)	YNN*Y	YNNYY	Vasconcellos (D)	YYYYY	YYYYN
Hughes (D)	YYYYN	NYYYN	Vicencia (D)	YNYYY	YYYYN
Imbrecht (R)	NNNYY	YYNNY	Waters, M. (D)	YYYYN	NYYYN
Ingalls (D)	YYNNY	NY*NY	Waters, N. (D)	YYYYY	NYNYY
Ivers (R)	NNNNY	YNNNY	Wray (D)	YYYYY	YYYYN
Johnson (R)	*NN*Y	YYNYY	Wyman (R)	NNNNY	YNNNY
Kapiloff (D)	YYYYY	NYYYN	Young (D)	NYYYY	YYYYY

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California CAPSULES

Despite Prop. 13, property values increase 13.8%

The assessed value of property in California rose 13.8 percent last year despite the limitations of Proposition 13, the state Board of Equalization reported. The hike in the tax rolls was about the same as the last year before the enactment of the Jarvis-Gann initiative, which put a 2 percent cap on increases for unsold property. The big jump was posted mainly because of the reassessment of transferred parcels and the initial taxation of newly constructed buildings.

Lobbyists spent about $50 million in two-year period

The state Fair Political Practices Commission issued a 354-page report showing that $50 million was spent during 1977 and 1978 to influence the Legislature and state administrative agencies. The total was up about 25 percent from the previous two-year period, about matching inflation. The amount spent on entertaining legislators jumped from $22,000 to $108,000. Utilities topped the list of spenders, primarily because of Public Utilities Commission activity.

The top 10 spenders: San Diego Gas and Electric, $1.9 million; Pacific Telephone and Telegraph, $1.3 million; Southern California Gas, $937,000; Law and Order Campaign Committee, $865,000; Southern California Edison, $778,000; Pacific Gas and Electric, $711,000; California State Employees Association, $703,000; Teamsters, $686,000; California Medical Association, $672,000; California Supervisors Association, $538,000.

Top 10 lobbyists in receipts: James D. Garibaldi, $460,000; W. Bruce Roberts, $304,000; Joseph F. Mahoney, $281,000; Joe A. Gonsalves, $280,000; Ronald E. Barrows, $261,000; Donald Kent Brown, $250,000; William R. Burke, $215,000; Ethan J. Wagner, $201,000; Frank J. Burns, $200,000; Michael Dillon, $193,000. Most are multi-client contract advocates.

LNG project gets final approval from federal agency

The federal Department of Energy on September 27th gave final approval to the construction of a $618 million liquefied natural gas terminal near Point Conception in Santa Barbara County. The project, which has been on the drawing boards for six years, is expected to be challenged in court by environmental groups. The gas would be shipped to California by tanker from Alaska and Indonesia for distribution by Pacific Lighting Corporation and Pacific Gas and Electric Company.

Initiative fever continues, especially in the tax field

Two tax organizations — one conservative and the other liberal — have joined the California initiative parade. The National Taxpayers Union, which is spearheading the drive for a balanced federal budget, is circulating petitions to give Californians income-tax credits of up to $1,200 for the educational expenses of their children. The California Tax Reform Association submitted an initiative which would increase taxes for corporations and high-income individuals and reduce them for 92 percent of the state's residents.

ROSTRUM

The *Journal* welcomes brief letters from readers.

'Unreasonable' Mono plan

"The Troubled Waters of Mono Lake" *(CJ,* October 1979) fails to acknowledge the severe impact on Los Angeles residents posed by the unreasonable recommendations of the Interagency Task Force on Mono Lake.

Water conservation and consumption affects cities throughout California. However, the responsibility for Mono Lake has been dumped into Los Angeles' lap, with its citizens being asked to bear the enormous costs of solving Mono Lake's environmental problems.

The Los Angeles City Council has gone on record opposing the Task Force recommendation that the city reduce by 85 percent the amount of water it diverts from Mono Lake. This would cut Los Angeles' water supply by 15 percent, and it is highly unlikely we will be able to make up the loss from other sources.

It will take 50 years for the lake to stabilize if the city reduces its diversion of water. During that time, Los Angeles Department of Water and Power customers will pay nearly $1 billion to replace the water and the hydroelectric power generated by water coming through the system.

Los Angeles' poor air quality will become even worse, because replacing this lost power requires burning an additional 45 million barrels of fuel oil.

Environmental concerns expressed in the Task Force report are overstated. The California gulls and other waterfowl which nest in the Mono Lake area are not endangered species and have proven themselves in the past to be highly adaptable to changing environmental conditions.

The City Council and the Department of Water and Power have endorsed a proposed joint study of the lake's environment to be conducted and financed by local, state and federal agencies. Such a study is critically needed. Instead of passing the buck to the City of Los Angeles, the Task Force should have seen this as an issue of statewide concern and made recommendations that would require it be treated as such.

JOY PICUS
Councilwoman
Los Angeles

Maullin's departure

Your paragraph on my leaving the chairmanship of the Energy Commission ("Up Front," *CJ,* October 1979) is highly inaccurate. The only "pressure" on me was the governor's request that I join Tom Quinn and Dick Silberman in chairing his exploratory campaign for the presidency.

I resigned from my government position after the governor and I agreed on the nature of the position I would occupy in the election campaign. Since a high-level government job and an election campaign responsibility are full time and mutually exclusive pursuits, one job precludes the other. When the press first carried reports that I might join the election campaign, Gene Varanini asked the commission's counsel to give him an opinion as to whether the chairman of the Energy Commission could carry out a federal election campaign role and still serve on the commission. I understand that the actual circumstances present no conflict or violation of law. But the query was and is moot. The nature of the jobs, let alone the propriety, make them incompatible. So, in short, and contrary to your blurb, I left the Energy Commission on my own volition and at my own speed.

RICHARD L. MAULLIN
Co-Chairman
Brown for President

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By Leo Rennert

Welcome to America

A nasty backlash is gathering force on Capitol Hill against the growing influx of "boat people" from Southeast Asia. As the recession deepens, many congressmen and their constituents see refugees as bothersome intruders competing for scarce jobs. At committee hearings, there are rising complaints about the cost of refugee assistance, which is approaching the politically sensitive $1 billion mark. Officially, the U.S. still maintains an open-door policy; but Congress soon may begin to clamp down on admissions. When the usually liberal House Judiciary Committee considered renewal of the 1975 Indochinese Refugee Assistance Act, Robert McClory of Illinois, the ranking Republican, set the emotional tone. "Tens of millions of Chinese could qualify under this bill," he complained. As for those who actually reach these shores, McClory didn't see why the federal government should go out of its way to pick up welfare and medical costs for any extended period of time. "How did the Irish, the Swedes and the Italians ever integrate into our society?" he asked.

All this is bad news for California and its tens of thousands of new refugee residents. Any major immigration wave is bound to present acute absorption problems. But the task is vastly compounded when the national mood turns sour and political leaders take flight. Like it or not, California is right in the middle of the gathering storm because, more than any other state, it has become the prime destination of these new Americans. Out of 220,000 refugees who have arrived since the fall of Saigon, it is now estimated that more than 100,000 are in California, including 40,000 on welfare. According to Brown administration forecasts, the state's refugee total may swell to 300,000 by 1984. While the numbers soar, Congress and the Carter administration have begun to take deliberate steps to force state and local governments to assume a big share of resettlement costs. California officials have responded with howls of protest. It's not the first time Washington and Sacramento have engaged in a finger-pointing game about who's responsible for what — and who gets stuck with the bill. But this dispute has an unusually sharp edge to it because it has turned into a buck-passing exercise between three major contenders for the Democratic presidential nomination — Jimmy Carter, Ted Kennedy and Jerry Brown.

The President is pressing a liberal policy on refugee admissions in hopes of persuading other countries to pitch in and open their doors. But he's also saddled with a big budget deficit and politically more pressing demands on the federal treasury. As a result, the White House wants to end full federal funding of welfare, medical and other resettlement costs two years after a refugee's date of entry. After that, state and local governments would have to put up about 50 percent of the money. For California, this means a new annual obligation of about $60 million. As more refugees stream in, the cost will go up correspondingly.

So far, Congress has shown a somewhat more generous attitude. But it also has rejected Brown's demands that the full-federal-funding policy be continued for at least two more years for all Indochinese refugees regardless of how long they've been in this country. As the Senate's leader on refugee policies, Kennedy might have been expected to edge Congress closer to California's position. Instead, he has resisted major concessions on the touchy question of reimbursement. So have other liberals, who fear that conservatives will pounce on ballooning budgets for refugees as a pretext to slow down the migration wave. Politically, refugee costs and refugee admissions have become conflicting objectives; older refugees are beginning to stand in the way of new refugees. Forced to make a choice between preserving a liberal admission policy and "bailing out" California, Kennedy has given first priority to keeping the doors open. So, in effect, has Carter.

The Brown administration bristles with indignation, accusing Washington of dumping an essentially national problem on state and local taxpayers. But the California governor also has made it easier for Carter and Kennedy to constrict the flow of federal money. Brown's popularity on Capitol Hill is somewhere below zero and his presidential ambitions have not endeared him to either Kennedy or Carter. Also, Brown's performance in handling absorption of refugees in California has been less than brilliant. The governor basically left the job to his health and welfare chief, Mario Obledo, who has never been accused of being a managerial whiz. Kennedy staffers were quick to charge that California has done little to get refugees off welfare. "California is reaping its own whirlwind," said a Kennedy aide. "Compared with other states, California has made the least use of federal social service funds to get refugees off welfare." Said another Senate insider familiar with the refugee issue: "Brown has been the problem all along. When you look at the Kennedy and Brown camps these days, it's like two dogs bristling in an alleyway."

The Brown camp says it's getting a bum rap. State officials belatedly sought help from the congressional delegation. They argued California is doing the best it can and the blame rests with Washington for holding back adequate funding. With California on the ropes, Assembly Speaker Leo McCarthy appealed directly to Kennedy for more federal support, then ordered his own investigation of Brown's management of refugee programs. The findings reinforced Kennedy's view of serious shortcomings in Sacramento. Assemblymen Richard Alatorre and Art Torres, who conducted the probe, pointed to poor staffing, weak coordination and inordinate delays in providing essential services to refugees. Instead of leaving the job to Obledo, they urged Brown to assume personal leadership and to appoint a refugee coordinator in the governor's office.

It may take months — perhaps longer — to sort out these problems. Time, however, is running short. The refugee situation has become a political timebomb with a short fuse. Demagogues are waiting to exploit it for all it's worth. That's the dark side of the melting pot and it's not exactly a new phenomenon.

Welcome to America!

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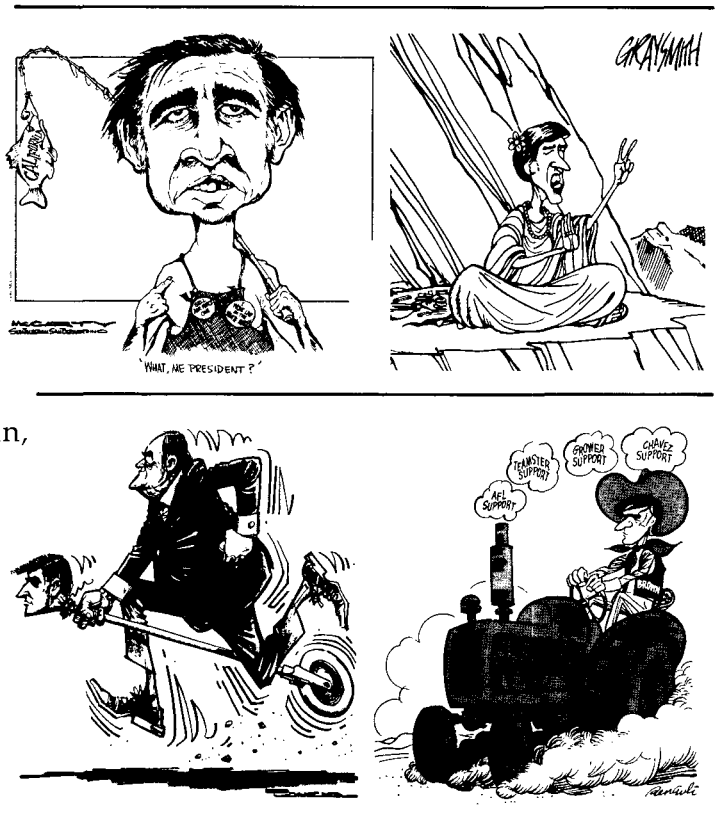

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— Winston Churchill

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